CODIFICATION DES LOIS SIAMOISES: NOTES ET CORRESPONDANCE,

AVRIL 1907 - JUILLET 1910



OFFICE OF THE SURIDICAL COUNCIL
THA CHANG WANG NA,
BANGKOK 10200, THAILAND.

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Commission

de

Codification.

Notes et correspondance

Avril 1907 - Juillet 1910.

Ministère de la Justice
Bangkok.



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MEMORANDUL.

in the last treaty passed between Siam and France, I understant that the Siamese Government would like to have the work of Codification completed as soon as possible, as the giving up of the whole jurisdiction over french ressertissants is now subject to the publication of the several Codes.

I therefore venture to submit to the Ministry of Justice a general scheme for the completion of such work.

nished, in so far at least as the Legislative Adviser is concerned. The English draft has been revised and highly improved by the Committee appointed for that purpose under the Presidence of His Röyal Highness Prince Damrong. The revised text is being printed. I expect it will be ready in another week or two. The Special Commission entrusted with the writing of the Siamese text will then be able to start work.

· Besides the Penal Code, a general Codification must include:

A Code of Criminal Procedure,

A Civil and Commercial Cods,

A Code of Civil Procedure (including procedure in commercial cases)

A law of Organization of Courts.

The first work to be taken up now is undoubtedly the Code of Criminal Procedure, wh 1ch forms the complement and continuation of the Penal Code.

Criminal Procedure is at present

governed in Siem by the "Transitory Criminal Procedur Cede" enacted in the year 1896. This act is no work than a short abstract in 40 sections giving more general statements of Law. Its form is so concise that it could not be used as a frame work for the compilation of a new Criminal Procedure Code. It would be impossible to try to classify the various and numerous rules of the present practice under its 40 sections. But, it gives a very clear indication of the general principles on which the Criminal Procedure is now based, and will be of great help in that respect.

with regard to that part of the Criminal Procedure which concerns evidence, the "Law on
Evidence" of the year 1895 is a much more comprehensive document, which requires only some amendments or alterations. The matter of Evidence is of
course to be embodied in the Criminal Procedure Code.

The matter of a Code of Criminal Procedure is more considerable perhaps than the matter of a Penal Code. The French Penal Code numbers 484 sections. The French Code of Criminal Procedure numbers 643 sections. In Germany, the figures are respectively 370 sections for the Penal Code and 506 sections for the Code of Criminal Procedure. In Japan; there are 430 sections in the Penal Code at present in force, and 480 sections in the Code of Criminal procedure. The Indian Penal Code has 511 sections, the Indian Criminal Procedure Code has 565 sections. In Egypt only, owing to the very simple system of procedure now in force the Criminal Procedure Code numbers less sections than the Penal Code (282 sections against 341).

The revised draft of the Siamese Penal Code contains 338 sections. It is probable that the Code of Criminal Procedure will include from

350 to 400 sections.

"Civil and Commercial Code" a very large piece of work is meant. Shortly speaking, such Code is to include:-

I .- The law relating to persons,

2.- The law relating to property, mo-

3.- The law relating to obligations and contracts.

LAW RELATING TO PERSONS .- The law relating to persons deals with

- a)- capacity of persons, either natural persons or legal persons or bodies incorporated by law;
 - b')- nationality, domicile, absence;
 - 'c)- marriage, its forms and effects;
- d)- property of husband and wife, either personal property or joint property; administration of such properties.
- e)- cancellation or dissolution of marriage; divorce;
- f)- consequences of dissolution of marriage, settlement of accounts, division of property;
- g)- children, legitimate and illegitimate, adoption, rights of parents over their children, guardianship:
 - h)- inheritance and gifts.

LAW RELATING TO PROPERTY .- The law re-

- a) immoveable property, its constitution, title deeds, real rights, servitales, possession, mortgage;
- b)- moveable property, possession, pledge.

LAW RELATING TO DEBIGATIONS .- The law

a) definition of obligations and contracts, formation of obligations and contracts, effects of such obligations and contracts, termination of same;

b) rules of specific contracts such as sale, sale on trust, exchange, loan, hiring, agency, deposit, suretyship, associations, negociable instruments, etc.

Several other important matters like insolvency and bankruptcy, privileges, prescription, maritime commerce, insurance, average, etc. ere also to be incorporated in the Civil Gode and may be ascribed to either the second or the third part. It depends upon what distribution of chapters may be adopted by the Siamese Government and principally upon the distinction or non-distinction of civil and sommercial matters.

mentioned questions shall constitute a volume of several thousand sections. In France, the Civil Code numbers 2281 sections, the Commercial Code 648 sections, total 2929 sections. In Germany, the Civil Code is 2385 sections long, the Commercial Code 965 sections, total 3290 sections. In Egypt a short summary of Civil and Commercial matters extends over 1476 sections. In Japan, the new Civil Code has 1147 sections. In Japan, the new Civil Code has 1147 sections. It cannot venture of course to put in any figure for Siam, even an approximate one, but I am inclined to think that the work will not be complete in less than 3000 sections.

The compilation of a Civil and Commercial Code of over 3000 sections would be a too

considerable task to take it in hand just at one time. It would be easier to take it part by part, sust following a process which has been very successful in Switzerland. The law on obligations and contracts would come first. Then the law on property and afterwards the law on persons and family. I is not of course the logical order of a civil Code, where persons and property ought to be defined and described before obligations, as obligations E are the legal con ections between persons and property. But it is going from the less difficult part to the more difficult. Law concerning persons end property is very peculiar in Siam if compared with the Western countries where model Codes may be selected. On the contrary, the law on obligation's is more uniform all over the world. It is therefore the easiest part to frame. After all , if we are to include in it bankruptcy, negociable instruments and matters in connection with the maritime trade, it will constitute more than half the whole Civil Code.

way of codifying the Siamese law on obligations and contracts, but a draft act in 173 sections concerning to commercial partnership and companies.

at present most advanced. His Royal Highness Prince Rabbi has completed last year a consolidation of the various acts and regulations dealing with Civil Procedure. A draft act has been so prepared, numbering I43 sections and including all the rules actually followed in the Siamese Civil Courts.

A consolidation of the law of Organization of the Courts in 37 articles has been compiled

Goth these documents mught be promulgaed now as they strand, and shall constitute a counterais inversement in the way of clearnen and counterry of rules of fromture that it is product thook of ar the Penne who, the cote of criminal browder and the wire Code have Teen promulgated the interof cine tweeters a readjustment of the Rules of civil Procedure will Teams recessory. What Attrations will be required largely departs again the owner indicate the horner Government is to but ugarding serval mater to it in which three Je not mitted for its count entire during the compilation of the Wig amima Proceder and of the niv code. anyway ! wehow that with a rather title work they might be transformed in a lot of time Ocoretire and a low of organization of Gurts on to provided in My Franco- Horney Titaty

There documents might be promised as they

whether these documents might be promulgated as they stand largely depends upon the course the Government shall take regarding several civil and penal matters which will be submitted as for its consideration during the preparation of the Code of Criminal Procedure and of a general scheme of Code on obligations and contracts. Anyway, some adjustment might be necessary to make them consistent with the new Penal Code and with the distribution of Civil and Commercial matters in the Civil Code.

The foregoing indications show that the Penal Code constitutes only a very small part of the general codification. However, when enacted, it will have taken about three years to pass it through: and it must be borne in mind that before the Legislative Adviser took charge of 4t, a considerable work had already been done in the shape or the draft initiated by a former Commission, taken up conjointly by Dr. Masao and Mr. Schlesser and completed by Mr. Schlesser. Should we go through the same process for the further Codification, I would not warrant that the Codes will be linished c. Taking three years as in another twenty, a minimum for the Penal Code, which includes 338 sections, a complete codification in 4000 sections at least would last ten times more. The slightest drawback of such a lenghty process would be that the work shall have to pass through several hands and will lack harmony.

Under the actual circumstances, the process I would recommend to the Government is the following:-

As aforesaid, the first matter to be

taken up after the Penal Code is the Code of Cri-

following work could be started immediately:

tions, directions, instructions etc. issued either by the Ministry of Justice or by the Ministry of the Interior in connection with the criminal procedure.

- practice actually followed in criminal cases by the Police, the Gendermerie, the Attorney General's Department, the Public Prosecutors under the Ministry of the Interior and the criminal courts of first instance (Criminal Court, Borispah Courts, Municipal Courts).
- documents and informations. I would ask the Ministry permission to possession for some days and criminal proceedings in the Fermi Courts in Bangkok and also in some remote Courts outside Bangkok, say one Court under the Ministry of Justice and une Court under the Mahathai Department. Such an experiment I consider necessary, as criminal procedure must be practical and suited to the wants of the country as well as to the abilities of the administrative and judicial staff. The theoretical part, which is extremely important in the Penal Code, is of much less importance in the Code of Criminal Procedure.
- 4)- After such enquiries being completed, a might draw up a preliminary text to be submitted to a drafting Commission. We would then follow about the same process as for the Criminal Code. But, as the question of procedure is more of a practical and technical character, and is more

connected with the internal management of the Ministry of Justice, a more important part should be
given to the administrative representatives of
such Ministry in the work of the drafting and revising Commissions.

being prepared. I would suggest that the preliminary work be also started in connection with the Code of Obligations and Contracts, so that the Civil matters might be taken along with the Criminal Procedure.

a mere preliminary draft of Code of Obligations or any other part of the Civil Code, it is absolutely necessary to make abstracts or summaries of the various siamese laws dealing with Civil matters.

shape of articles of Code, summarizing each either a section of law or a ruling of the Dika. They would be distributed under the heading of one of the simplest Codes now in use, say the Swiss Code of Obligations or the Japanese Civil Code. They will be invaluable for the compilation of the draft, as for any matter to be examined by the Legislative Adviser before being embodied in the draft Code, they will give a full statement of the Siamese law or practice.

except by a person having received a special training under the Code system. The services of a secretary ought to be engaged for that purpose. Such man must be a graduate of the best Law School and be thoroughly acquainted with any matters connected with Codification.

year if the proper man for doing it could goin the service in another three or four months, the abstract could be completed about the middle of the year 1908.

My intention is to to grant me a leave in march or april 1908. At that moment the preliminary draft of the Code of Criminal Procedure will be ready. For the completion of such work as well as for the compilation of the other drafts, an assistant begislative Adviser will be necessary. One single man, whatever his zeal might be, cannot carry out alone such considerable work as # general codification entails. Large and comprehensive laws are to be looked up at by several competent persons. One points out the deficts which the other one might overlook. Besides, to undertake it alone would exceed the time which one may expect to be able to stay in a tropical country like Siam. For these ressons, and after the experiment I have made with the Penal Code, I would not dare to undertake the Codification of the Civil and Commercial law of Siam without the assistance of some able persons. One assistant and one secretary are the minimum staff one may require for such an important work as contemplated by the Siamese Jovernment. Similar work in other countries has been carried out by commissions including a large number of trained lawyers and at officials having the practice of the Code system. I don't think that a general codification was yes ever commenced with such a small starf as the one I propose to appoint.

However, t e services of the assistant are not required just now; the preliminary work the Code of obligations will be carried out by

the Secretary, as explained beforehand, and I myself will prepare the Code of Criminal Procedure. I could therefore, - if the Government agrees on the principle, - select the assistant on my next leave only.

Assuming that the abstracts concerning the Code of Obligations be ready by the middle of 1908, the shortest process I would recommend to the Government for the preparation of a preliminary draft is to make the frame- work of it in Europe. For doing such a work quickly and safely, one must have at hand all possible means of information, either books or opinions of competent lawyers. In a place like Paris, the Legislative Adviser and his assistant would be able to decide on the general distribution of a Code on obligations and to frame out the most important provisons of it in less than half the time it will take in Bu Being based on the abstracts compiled in Siam it will embody the Siamese practice as well as the best results of modern jurisprudence. When coming back to Bangkok, we might in a rather short time put it in the form of a draft Code to be submitted to a commission of Siamese lawyers and advisers, and afterwards revised by a higher Commission, just in the same way as was so successfully tens w with the Panal Code.

tion, that is to say drawing of the Code of Civil Procedure and of the Code on persons and property, I am not yet prepared to submit to the Government any definite scheme. The matter is a too distant one, and the course to be adopted might depend upon the success of the Code of Obligations.

There is only one point more which I

should like to submit to the Government.

will be the siamese text. But it seems absolutely necessary that seems text be published also in some european language. It is principally in view of the fact that sooner or later, all foreigners will be submitted to the Siamese jurisdiction. It is only fair that a text of the laws they will be subject to should be put at their disposal in a language they are acquainted with. Besides, it is in the interest of the Government that the Siamese law, which is to apply to many contracts in which the Europeans are concerned, he known to these Europeans.

I would then propose that a text be published in both English and French. The English text will be the most useful for practical purposes, as anglish is hermost commonly spoken (language) by the foreign community here. The French text small to be useful for making the work of codification LLL known outside Siam, as France is a place where the science of comparative Jurisprudence and Codificatoon is most favoured. A French translation of the Codde - 1921 - enoble - up to - The French - renolation shall take place Almost all Codescenacted all over the world have been published and commented upon in France. To publish them our Codes in French would be the best way of advertising curselves and making known the progress of stam lealized by the hamese Government in the matter of Codification.

Ministry of Justice.

19th. April 1807.

MEMORANDUM.

In consequence of the provisions made in the last treaty passed between Siam and Prince, I understand that the Siamose Covernment would like to have the work of Codification completed as soon as possible, as the giving up of the whole jurisdiction over French remortlessats is now subject to the publication of the several Codes.

I therefore venture to subsit to the Ministry of Justice a general school for the completion of much work.

The Penal Gode may be considered as finished, in so far at Zenst as the Legislative Mainer is concerned. The English draft has been revised and Mighly improved by the Consisted appointed for that purpose under the Presidency of His Royal Highmose Prince Daurong. The revised text is being printed.

I expect it will be roady in another week or two. The Epecial Commission entrusted with the writing of the Eigmone text will then be able to start work.

Besides the Foral Code, a general Codification must include:-

A Code of Criminal Procedure.

A Civil and Commercial Code.

A Gode of Civil Procedure (including procedure in

A Law of Organization of Courts.

The first work to be taken up now is undoubtedly the Code of Chiminal Procedure, which forms the complement and continuation of the Penal Code.

Original Procedure is at present governed in Sign by the "Transitory Original Procedure Code" engated in the year 1898. This not is a short abstract in 40 sections giving merely

not be used as a frame work for the compilation of a new Oriminal Prodedure Code. It would be impossible to classify the
various and mamarous rules of the present practice under its
40 sections. But, it gives a vary clear indication of the general
principles on which the Original Procedure is now based, and
will be of great help in that respect.

oncorns evidence, the "Law on Evidence" of the year 1895 is a much more comprehensive document, which requires only seem amandments or alterations. The matter of Evidence is of course to be embodied in the Criminal Procedure Code.

The matter of a Gode of Original Procedure is more considerable perhaps than the matter of a Penal Gode. The French Penal Gode number: 484 sections. The French Gode of Original Procedure numbers 643 sections. In Germany, the figures are respectively 370 sections for the Penal Gode and 506 sections for the Gode of Original Procedure. In Japan, there are 480 sections in the Penal Gode at present in force, and 480 sections in the Gode of Original Procedure. The Indian Penal Gode has 511 sections, the Indian Original Procedure Gode has 565 sections. In Egypt only, owing to the very simple system of Procedure now in force the Original Procedure Gode numbers less sections than the Penal Gode (282 sections against 341).

The revised draft of the Sigmers Panal Code contains 888 sections. It is probable that the Code of Original Procedure will include from 850 to 400 sections.

Under the title of "Civil Code" or of "Civil and Commercial Code" a very large piece of work is meant. Shortly speaking, such Code is to include:-

- 1. The law relating to persons.
- 2. The law relating to property moveable and immoveable,

3. The law relating to obligations and contracts.

LAW RELATING TO PHYSONS. - The law relating to persons doals with

- pursons or bodies incorporated by law;
 - b) nationality, domicile, absonce;
 - .o) marriage, its forms and effects;
- or joint property; administration of such properties;
 - e) cancellation or dissolution of marriage; diverce; .
- f) consequences of dissolution of merriage, settlement.

 of accounts, division of property;
- g) children, legitimate and illegitimate, adoption, rights of parents over their children, guardianship;
 - h) inheritance and gifts.

LAW RELATING TO PROPERTY .- The law relating to property deals with

- a) immoveable property, its constitution, title deeds, real rights, servitudes, possession, mortgage;
 - b) movemble property, possession, please.

LAW RELATING TO OBLIGATIONS. - The law relating to obligations and contracts includes:-

- of obligations and contracts, effects of such obligations and contracts, termination of same;
- b) rules of specific contracts such as sale, sale on trust, exchange, loan, hiring, agency, deposit, surety ship, associations, negociable instruments, etc.

Several other important matters like incolvency and bankruptcy, privileges, prescription, maritims commerce,

insurance, average, etc. are also to be incorporated in the Givil Code and may be ascribed to either the second or the third part. It depends upon what distribution of chapters may be adopted by the Siamese Covernment and principally upon the distinction or non-distinction of civil and connercial matters.

shall constitute a volume of several thousand sections. In France, the Civil Code numbers 2781 sections, the Commercial Code 648 sections, total 2929 sections. In Germany, the Civil Code 1s 2885 sections long, the Commercial Code 905 sections, total 2920 sections. In Egypt a short surgery of Civil and Commercial matters extends over 1476 sections. In Japan, the new Civil Code has 1147 sections, the Commercial Code 1084 sections, total 2211 sections. I cannot venture of course to pat in any figure for Siam, even an approximate one, but I am inclined to think that the work will not be complete 14 less than 3000 sections.

The compilation of a Civil and Commercial Code of over 8000 sections would be a too considerable tack to take it in hand just at one time. It would be easier to take it part oy part, thus following a process which has been very successful in Switzerland. The law on obligations and contracts would come first. Then the law on property and afterwards the law on persons and family. It is not of course the logical order of a Civil Code, where persons and property ought to be defined and described

before obligations, as obligations are the legal connections between persons and property. But it is going from the less difficult part to the more difficult. Law concerning personal and property is very poculiar in Siam if compared with the Western countries where model Code, may be selected. On the contrary, the law on obligations is more uniform all over the world. It is therefore the easiest part to frame. After all, if we are

* to include in it bankruptey, negociable instruments and matters in connection with the maritime trade, it will constitute more than half the whole Civil Code.

Bothing has been done up to now in the way of codifying the Slamese law on obligations and contracts, except a draft act in 173 sections concerning conversial partnerships companies.

The codification of Civil Procedure is at present most advanced. His Royal Fighment Prince Rabi has completed last year a consolidation of the verious acts and regulations dealing with Civil Procedure. A draft act has been so prepared numbering Me sections and including all the rules actually followed in the Sigmene Civil Courts.

I consolidation of the law of Organisation of the Courts.
in 37 articles has been compiled at the same time.

Both these documents might be roundigated now as they stand, and shall constitute a considerable improvement in the way of clearmess and consistency of rules of Procedure. But it is probable that after the Fenal Gode, the Gode of Griminal Procedure and the Civil Gode have been promulgated, a readjustment of the Bules of Civil Procedure will become necessary. What alterations will be required largely depends upon the course the Siamess Government shall take regarding reversal ratters which shall be submitted for its consideration furing the compilation of the Gode of Griminal Procedure and of the Civil Gode. Any-way, I presume that with a rather little work they might be transferred in a Jode of Civil Procedure and a Law of Organization of Courts as provided in the Franco-Siamese Treaty.

The foregoing indications show that the Penal Code constitutes only a very small part of the general codification. However, when enacted, it will have taken about 3 years to pass it through; and it must be borne in mind that before the Legislative Adviser took charge of it, a donsiderable work had already been done in the shape of the draft initiated by a former Commission, taken up conjointly by Dr. Masso and Mr. Schlesser, and completed by Mr. Schlesser. Should we go through the same process for the further Codinication, I would not warrant that the Codes will be finished in another 20 years. Taking throp years as a minimum for the Penal Code, which includes 288 sections, a complete codinication in 4000 sections at least would last 10 times more. The slightest drawback of such a lengthy process would be that the work shall have to pass through several hands and will lack harmony.

Under the actual circumstances, the process I would re-

As aforesaid, the first matter to be taken up after the Penal Code is the Code of Criminal Procedure.

For the preparation of such Code the following work could be started immediately:

- 1) A full translation of all regulations, directions, instructionsets. issued either by the Ministry of Justice or by the Ministry of Interior in connection with the criminal procedure.
- 2) A full statement in writing of the practice actually followed in criminal cases by the Picies, the Gendermerie, the Attorney General's Department, the Fublic Prosecutors under the Ministry of Interior and the criminal courts of first instance (Original Court, Borispan Courts, Monthon Courts, Munng Courts).
- 3) After obtaining possession of such documents and information, I would ask the Ministry permission to attend for some days criminal proceedings in the Oriminal Courts in Bangkok and also in some remote Courts outside Bangkok, say one Court under the Ministry of Justice and one Court under the Mehathai

procedure must be practical and muited to the wants of the country as well as to the abilities of the administrative and judicial staff. The theoretical part, which is extremely important in the Penal Code, is of much less importance in the Code of Oriminal Procedure.

a preliminary tax to be submitted to a traiting Commission.

We would then follow about the same process as for the Criminal Code. But, as the justion of procedure is more of a practical and technical character, and is more connected with the internal management of the Ministry of Justice, a sere important part should be given to the extinistrative representatives of such Ministry in the work of the drafting and revising Cormissions.

Whilst the Code of Oriminal Procedure is being prepared.

I would suggest that the preliminary work be also started in connection with the Code of Obligations and Contracts, so that the Civil matters might be taken slong with the Oriminal Procedure

Before undertaking to write out even a mere preliminary past of Jode of Obligations or any other, of the Civil Code, it is absolutely necessary to make abstracts or summaries of the various Siamese laws and of the rulings of the Dika dealing with Civil matters.

Such abstracts must be made in the task of articles of Gode, each summarizing either a section of law or a ruling of the Dika. They would be distributed under the heading of one of the simplest Godes now in use, say the fwies Gode of Obligations of Japanese Civil Gode. They will be invaluable for the compilation of the draft, as they will give a full statement of the Siamese law or practice on any matter to be examined by the Legislative Advisor and embodied in the draft Gode.

This preliminary work cannot be made except by a person

having received special training under the doze system. The services of a secretary ought to be engaged for that purpose. Such men must be a granduate of the best Law School and be thoroughly acquainted with any matters commented with Codification

The proliminary work may last about one year. If the proper man for doing it could join the sorvice in another three or four months, the shatrants could be completed about the middle of the year 1908.

by intesttion is to net the Government to grant me a leave in March or Arril 1908. At that time the preliminary fraft of the Code of Original Procedure will be ready. For the completion of such work as well as for the compilation of the other drafts, an assistant Legislative Adviser will be necessary. One single man, whatever his seal might be, cannot carry out alone such considerable work as general codification entail to Large and comprehensive laws are to be looked at by several competent persons. One points out the defects which the other one might over-look. Pesides, to understand it alone would exceed the time which one may expect to be able to stay in a tropical country like Siam. For these reasons, and after the experiment I have made with the Penal Sede, I would not dere to undertake the Codification of the Civil and Commercial law of Fiam without the assistance of some able persons. One assistant and one secretary are the minimum staff one may require for such an important work as contemplated by the Sigmose Covernment. Similar work in other countries has been carried out by commissions including a large number of trained lawyers and officials having the practice of the Code system. I don't think that a general codification was ever commenced with such a small staff as the one I proposed to appoint.

However, the services of the assistant are not required just now; the preliminary work for the Ocde of obligations will

I myself will prepare the Code of Criminal Procedure. I could therefore, - if the loverment agrees on the principle, - select the assistant on my next leave only.

Assuming that the abstracts concerning the Code of Obligations be ready by the middle of 1908, the shortest process I would recommend to the Government for the preparation of a preliminary traft is to make the framework of it in Europe. For doing such a work quickly and safely, one must have at hand all possible means of information, either nooks or opinions of competent lawyers. In a place like Paris, the Legislative Advisor and his assistant would be able to decide on the general distribution of a Gode on Obligations and to frame out the most important provisions of it ir less than half the time it will take in Bangkok. Being based on the abstracts compiled in Siam it will embody the Siamese practice as well as the best-results of medsen jurisprudence. When coming back to Bangkok, we might in a rather short time put in the form of a draft Code to be submitted to a commission of Siamese lawyers and advisers, and afterwards revised by a higher Commission, just in the same way as was so successful with the Penal Code.

As to the further progress of Codification, that is to say drawing of the Code of Civil Procedure and of the Code on persons and property, I am not yet prepared to submit to the Covernment any definite scheme. The matter is a too distant one, and the course to be adopted might depend upon the successof. the proceedings followed for the Code of Obligations.

There is only one point more point which I should like to submit to the Government.

The official text of the several Codes will be the Siamese text. But it seems necessary that a text be published also in some European language. Somer or later, all foreigners will

be submitted to the Sigmone jurisdiction. It is only feir that a text of the laws they will be subject to should be put at their disposal in a language they are acquainted with. Besides, it is in the interest of the povernment that the Sigmone, law, which is to apply to many contracts in which Europeans are concerned, be easily known by these Europeans.

I would then propose that a text of each Gode be published in both English and French. The English text will be the most useful for practical purposes, as English is the language most commonly spoken by the foreign community here. The French will be useful for making the work of Godification known cutoide outside Siam, as France is a place where the science of comparative jurisprudence and Godification is nost favoured. Almost all Godes enacted all over the world have been published and commented upon in France. To publish our Godes in French would be the best way of advertising ourselves and making known the Progress realized by the Siamene Government in the matter of Godiffication.

the mu

Ministry of Justice.

Mr. Padoux, logislative Adviser,

to

H. R. H. Prince Damong, Minister of the Interior.

I have just submitted to the Under Secretary of the Ministry of Justice a Memorandum concerning the further Codification of the Siamese Laws. As Your Highness always displayed a keen interest in the matter, I take the liberty of forwarding to him a copy of such memorandum, hoping that Your Highness will approve of the suggestions which I am submitting to the Jovernment.

I think of loaving Bangkok on the 17th inst for a health trif to Java. Should Y. R. H. like to have any verbal explanation about the memorandum, I am always at Y. H. disposal.

The printing of the revised text of the draft Penal Code is progressing.

Minstry of Justice. IO april 1907.

Donr Ir. Strobel,

I beg to ferward you a gopy of the memorandum which I have submitted to the Under Secretary of the Ministry of Justice concerning the further progress of Codification.

There is mothing urgent in the matter, except what concerns the appointment of a secretary for the preliminary work in connection with the C de of Obligations. If the Siamese Government are anxious of pressing the matter of Codification, the sooner the man le appointed, the better. Now, I think leaving for Java on the 17th. inst. If something could be decided before my departure, I might immediately wire to the man I have in mind, and he could be here say in July or August. If the matter is delayed up to my coming back from Java, * it probably means three months delay more. But I would like to point that personally I do not press. I leave it entirely with the Siamese Covernment either to decide on the question or to postpone it. I only want them to note that anu delay will exert influence on the future p progress of the work

Sincerely yours,



ศากากการผเกาไทย วแล้ 11th อน April 907

Dear Mr Pardeux.

I have received your letter of yesterday's date enclosing Memorandum of the proposed new Siamese Civil Law, & Criminal Procedure, for my information, for which I beg you to please accept my best thanks.

I have read your Memorandum very carefully and personally.



I quite agree with your proposal.

I remain. Dear Mr Pardaux.

Yours Sincerely.

Dans rong.

Hand 3 907

Dran Mr. Pasing:-

gen a letter from itema Die I should the my much is see your again about the matter. If consmit for goe, the afternoon is The bel time wave me.

i'nauf journe Edwart Strokel Ministry of the Interior.

Bangkok, April 12th, 1907.

Dear Mr. Strobel.

I have shown to H.R.H. Prince Damrong Monsieur Padoux's letter concerning the suggestion for the appointment of a Secretary for the Preliminiary work in connection with the Code of Obligations and conveyed to him your message.

his Royal Highness fully approves of such appointment and he thinks the sooner we can get that Secretary the better, and he would support it when it comes up before the Council of Regency for the necessary sanction. His Royal Highness advises that Monsieur Padoux should see the Under Secretary

for

the Ministry of Justice and ask him to send a letter up to the Council of Regency for sanction.

Yours sincerely,

Phya Sri Sahadlich

. Mini

Dear Mr. Strobel.

of John Law St. Books Links

CONTRACTOR TO SUPERIOR TO SEE THE TOWN

the reservance of the Man problem of

ter a service and the prostruction

I mentioned to desert the Ministry of Justone the quantum ment of a sub-assistant for the Gament of a sub-assistant for the Gament that he was before the Commell either to-night

Sincerely

o send a letter

Salva dlub

Ministry of Justice. 16th.April 1907.

Dear Mr. Strobel,

I mentioned to day to the Under-Secretary of the Ministry of Just on the question of the appointment of a sub-assistant for the Codification.

He said that he would brien the entter before the Council either to-night or Thursday night,

Sincerely yours.

Munistry of Justice 1 18

Notes on the Division of the Proposed code on Obligation;

In the memorandum which I submitted to the Minister of Justice on April lith 1907, I referred to the civil codification by advising the Government to take up first the matter of obligations and contracts, and leave out for a further codification the rules concerning persons. My object was to follow the same process which has been extremely successful in Switzerland by going from the less difficult part to the most difficult.

The Government has approved of my views and engaged t the servicus of Mr. L. Evesque to act as a Secretary for the commission of codification and start the work of the civil code.

Mr. L. Evesque having arrived in Bangkok on the 4th september, I consulted with him on the division to be adopted for the code of obligations. We agreed on the following points:

The matters which the civil Lew deals with, are to be devided into two parts: rules concerning the persons and rules concerning the property. The rules concerning the persons refer to the condition of persons, erganization of family and inheritance; the rules concerning the property. refer to the legal conhections between persons at properties.

In a country whatsoever, the former part is most important as it is connected with the social life of the inhabitants. But, as the matter is generally ruled by old laws and prectice, which are well known by any one, it does not require an immediate codification. or garde grant under the acquire of education of

On the contrary, the business transactions and commercial intercourse result in numerous contracts, the validity and consequences of which may give raise to any amount of ol ways of proving the established on mittensifies of discussion

discussion and must therefore be clearly ascertained in the cent interest of the public order and economical growth of the country. Law concerning persons and real property is very peculiar in Siam if compared with the vestern countries where model-codes may be selected whilst law on evilgations is more uniform all ever the world. It is therefore the easiest part to frame. Moreover including in it the rules on commercial matters will constitute more than half of the fubure civil code. This is why it is advisable that the part of the civil code dealing with obligations and contracts be prepared first.

An obligation is a bond creating a right, the object of which is to procure an advantage for a person (called the creditor) by obliging the person bound (called the debtor) to do a definite act or to abstain from it.

The following would be a convenient division for a code obligations.

A first part would deal withm the different causes from which an obligaion may arise.

A second part would define the specific circumstances by which the ordinary forms of an obligation are modified: for instance several liability.

When an obligation excists, it has effects either for the parties, or for third persons; hence a third part dealing with the effects of obligations,

As an obligation may be transferred, there must be a fourth part dealing with the assignment of obligations.

How an obligation comes to an end would be the subject matter of a fifth Part under the heading of extinction of obligations. This would include the performance of the obligations and the consequences of their non performance.

A sixth part shall contain the rules concerning the se-

obligation, that is to say law on givil evidence.

The preceding parts include the essentials of the matter obligations; however, a Law one obligations would not be complete, if it did not include the rules concerning the different kinds of sureties by which the execution of the obligations may be quaranted.

An eighth part shall contain the particular rules of specific contracts such as sale, sale on trust, exchange, loan, hiring, deposit, associations, &c.

Part 1. Causes of Otligations.

Obligations erise out of four kinds of causes: centracts, conduct of parties wrongful acts, law.

Section 1. contracts.

contracts are the most important, the most frequent cause of obligations; they must comply with certain conditions of existence and yalidity.

conditions of existence are conditions failing with which a contract is null and wold, such as a contract without an object.

conditions of validity are conditions failing which a contract is only voidable. A veidable contract may become valid by subsequent Batification; for instance when the law requires that certain contracts be registered, so long as they are not registered, they may be concelled as irregular, but when registered, they become valid.

Thereathree conditions for existence of contracts:

ther's secondary the expression of eac's effor and another's secondarce; from this standpoint we have to define the rules governing the expression of intention and to deal with the questions arising out of the authority and responsibility of attorneys and other agents.

28. Object: There is no contract without an object. It is to be provided what kinds of properties or deeds may become objects of obligations; for instance the functions of a public corvent are not a matter of trade; a government orriotal can not dispose of Mic appointment,

ph. Descideration: There is no contrast without a consideration, or, if there is one, when the sensideration is false or illegal, such as a consideration contrary to the public morals or order.

There are four conditions for validity of contract:

16. That one's consent be not defective, viz. there be
no mistake, no fraud or wrongful compulsion.

That the parties to the agreement be capable of incurring obligations, for instance that a party be not under age or lunatio.

Dasties, for instance, in matter of debt. that interest be not more than capital.

In such a case the debter is allowed an action for annulation of the obligation.

48. That the formalities required by law be complied with.

Section 2 conduct of parties.

sometimes obligations arise from a legal deed without a proper agreement; for instance, when a person who is not a debtor performes an obligation by mistake or otherwise, the creditor must refund that person to the extent to which he(the ereditor) received advantage thereby.

Section 5.-Wrongful Acts.

Obligations often arise out of illegal acts committed, intentionally or by negligence. In this section we will define what is a wrongful act, who is responsible for it and what compensation is to be granted.— The provisions in the new Ponal Code will be of great help, for that purpose There will be also rules defining to what extent one may be liable for his own deeds, for another's deeds (for instance

for his children's deeds) and even for gooldents caused by his own properties (vide English . Employer's bisoility set. - . Workmen's compensation acts and Prench work's socidents acts.)

section 4 hav

plication of law. They are generally provided for the sake of public order, such as the husband being obliged to support his wife and children.



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Jone whom will contain rules concerning.

Jerfie rungnaments of obligations, viz

when a third foreon fat the runguant of

without the cradition, or the Delton J gots the

rights of the cradition towards the delton

by paying the Delt to the cradition.

case of the bransfer of a premissory note or of a serve bond by entersony

This part is to don't with the form and conditions of application of application and its effects between the parties as well as towards thirds persons.

ation and delegation which are specific assignments of

Part 5. Extinction of Obligations.

section 1. Performance of Obligations.— That is the most frequent and ordinary way for extinction of obligations; we shall define the rules showing what is to be delivered by the debter: where and when the debter is obliged to perform his obligation. With regard to the last point, we shall define the periods of times 1.e. how a period is to be computed when it is measured in hours, days, weeks, months, or years.

Sections, shall deal with the very important matter of hon-performance of obligations; when an obligation is not performed, there must be, instead of the exact performance, either cancellation of the contract or a fair and equivalent compensation, generally awarded in money. In this section will be included rules as to different ways of assessing the amount of a compensation.

In section 3, the other ways of the extinguishing obligations, such as novation, release, set off, eascellation, prescription, as shall be specifically described.

Part 6. Proofs of existence or extinction of obligations.

There are to be devided into four kinds.

. more or less weight when the act was passed before official or witnesses or when it was passed without witnesses.

oral evidence, for which the Sigmese Law on evidence

will of much help.

5. Presumptions or proofs derived from eigenmetanese.
44. Proofs resulting from the admission or eath of one of the parties.

A special section might include practical rules as to how construing rightly the clauses of contracts. Specific provisions shall also be made for cases whose the communities having not the same nationality, residing outside siam, there may be some doubt as to under which law they intended to contract.

Part 7. Sureties

by a person undertaking to perform an obligation in lient of the debter, if the debter does not perform it himself; they are called personal sureties.

The others, called real swreties, are constituted by the giving of an exclusive right over properties, such right to be exercised by the creditor, in case of non performance of the obligation. Pleage and Mortgage are real sureties.

I presume that personal sureties and preferential rights on moveables, properties, will only be included in the code of Obligations; the preferential rights on immoveable preperties I would rather leave for the next part of the civil code, where questions connected with tenureof land shall be dealt with.

Cyular Part 8, Rules of Specific contracts.

This last part shall contain the rules governing the most important contracts such as sale, sale on trust, exchange, gift, leans for consumptions or use, hiring of properties or services, associations (Including divil of commercial societies for which a draft set has already been prepared) Agency, Deposit, Business management, Unjust Exciohment.

negrotable instruments, ac.

1. Com House

The obstracts of Signess law and Dake rulings which Mr. Twesque is to compile shall be elecatried under the above headings, so, when taking up later and the sort of the code of Obligations, we push— shall be able to find out for each specific point of law what is the Signess law and Dynatics.

I intend the report every menth to the Minister of Suction how the work to progressing.

Ministry of Justice, 28 September 1907.

Notes on the Division of the proposed Code on Obligations.

In the memorandum which I submitted to
the Minister of Justice on April 11th 1997, I
referred to the civil Codification by advising
the Government to take up first the matter of
obligations and contracts, and leave out for
a further codification the rules concerning
persons. My object was to follow the same process which has been extremely, successfulf in
Switzerland by going from the less difficult
part to the most difficult.

The Covernment has approved of my views and engaged the services of Mr. L. Evesque to act as a Secretary for the Commission of Cod-iffication and start the work of the Civil Code 4

Mr. L. Evesque having arrived in Bangkek on the 4th September, I consulted with him on the division to be adopted for the code of obligations. We agreed on the following points:

with, are to be devided into two parts: rules concerning the persons and rules concerning the property. The rules concerning the property. The rules concerning the persons refer to the condition of persons, organization of family and inheritance; the rules concerning the property refer to the legal connections between persons at properties.

In a country whatsoever, the former part
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An obligation is a bond creating a right, the object of which is to procurean asyantage . for a person (called the creditor) by obliging the person bound (called the debter) to do a definite act or to abstain from it.

The following would be a convenient division for a code on obligations.

A Tirut port would deal with the differen & causes from which an obligation may arise. municipal day services

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then an obligation exists, it has effects there for the parties, or for third persons; hence a third_Bari dealing with the effects of obligations.

Must be a fourth part dealing with the assignment of obligations.

How an obligation comes to an end would be the subject matter of a fifth part under the heading of extinction of obligations. This would include the performance of the obligations and the consequences of their non performance.

A mixth part shall contain the rules concerning the several ways of proving the existence or extinction of obligation, that is to say law on Civil evidence!

The preceeding parts include the essentials of the matter of obligations; however, a Law on obligations would not be complete, if it did not include as an seventh part the rules concerning the different kinds of sureties by which the execution of the obligations may be guerantied.

An eighth part shall contain the particular rules of specific contracts such as sale, sale on trust, exchange, loan, hiring, deposit. associations, &c.

PART 1. - CAUSES OF OBLIGATIONS.

causes: contracts, conduct of Parties, wrong-

Section 1. - Contracts.

frequent cause of obligations; they must comply with pertain conditions of existence and validity.

reilling which a contract is null and void, such as a contract without an object.

realitions of validity are conditions failling which a contract is only voidable.

A voidable contract may become valid by subsequent stification; for instance when the law requires that certain contracts be registered, to long as they are not registered, they may be concelled as irregular, but when registered, they become valid.

of contracte;

- (1) Agreement, i.e. expression of one's offer and another's acceptance; from this stand-point we have to define the rules governing the expression of intention and to deal with the questions arising out of the authority and responsibility of attorneys and other agents.
- (2) Object: There is no contract without an object. It is to be provided what kinds of properties or deeds has become objects of obligations; for instance the functions of a public servent are not a matter of trade;

a government Official can not dispose of his appointment.

without a consideration, or, if there is one, when the consideration is false or illegal, such as a consideration contrary to the public margin or order.

. There are four conditions for validity of

- (1) That'one's comment be not defective, vis. there be no mistake, no fraud or wrongful opaquision.
- (2) That the parties to the agreement be capable of insurring obligations, for instance that a party be not under age or lumatio.
- (5) That there be not gross injury done to one of the parties, for instance, in matter or debt, that interest be not more than capital.

In such a case the debtor is allowed an setion for annulation of theebligation.

(4) That the formalities required by law be complied with.

Section 2.-Conduct of parties.

deed without a proper agreement; for instance, when a person was in met a debter performed an obligation by mistake or otherwise, the oreditor must refund that person to the extent to which he (the creditor) received advantage thereby.

Section 8. - Frongful acts.

Obligations often arise out of tilegal note committed, intentionally or by negligence.

In this section we will define what is a wrongful act, who is responsible for it and what
compensation is to be granted. The Provisions
in the new Penal Code will be of great help,
for that purpose -- Thera willbe also rules
defining to what extent one may be liable for
his own doeds, for another's deeds (for instance
for his children's deeds) and even for accident
caused by his own properties (vide English
Employer's Liability act -- "sorkuen scompensation act" and French Work's accidents
acts)

section 4.-Law

created by implication of law. They are generally provided for the sake of public order, such as the husband being obliged to support his vice and children.

. PART 2. - SPECIFIC FORMS OF OBLIGATIONS.

The conditions in part 1, are substantial .
to every obligation; these in part ? occur only
in some particular cases. They ere to be devided
under four different headings.

(1) Conditions precedent or subsequent, and conditions as to time of performance of the obligation. Those conditions refer to futhers event, the happening of which effects the existence, excution or extinction of the obligations. For instance an agreement for delivery of goods may be subject to a condition subsequent, such as the delivery by a specified thip, landing before a fixed date; if the

vessel does not arive at the time due, the contract falls to the ground.

- an explicated obligations. The debtor of an explicated obligation has the option to perform his obligation one way or the other for instance by Paying a cortain sum of money instance of gelivering a cortain property.
- 5). Joint and Several Obligations, i.e.
 obligations where the creditor may at his discretion ask for performance from any one of the debtors.
 - a), hivisible and non divisible obligation bivisible obligations are those obligations which may be performed suggestedly or by instalments. A non divisible obligation is an obligation which, either by agreement of an account of the nature of the property, must be performed at one time; for instance in the case of sale of a pony the price may be baid by instalments but the obligation of delivering the animal cannot be devided.

PART 3.-PPPEGTS OF OBLIGATION.

In this part, we wust provide rules: for the effects of the obligation between parties and the effects towards thirds persons me were not parties to such obligations.

PART 4. ASSIGNMENT OF OBLIGATIONS.

the stage

This part is to deal with the form and conditions of assignment of an obligation and its effects between the parties as well as towards thirds persons. ing specific as ignosule of obligations, vis when a third person (at the request or either the areditor, or the action) acquires the right; of the preditor towards the debtor by paying the debt to the ereditor.

An illustration is the gase of the transfor of a promissory note or of a slave bend by endorsement.

PART S.-EXTINCTION OF OBLIGATIONS.

That is the nest frequent and ordinary way for extinction of obligations; we shall define the rules showing what is to be desivered by the debter;, where and when the debter is obliged to perform his obligation, with regard to the last point, we shall define the periods of times i.e. how a period is to be computed when it is measured in hours, days, weeks, menths, or years.

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In section 5. the other ways of extingularing obligations, such as nevation, release,

be specifically described.

PART 6. PROOFS OF EXISTRACE OR EXTINGUION OF ORLIGHTON

There are to be devided into four kinds.

- evidence has more or less weight when the set was peased before official or witnesses or then 120 was passed without witnesses.
- (2) Oral cridence, for which the Siemone bay on evidence will of much help.
- (5) Prosumptions or proofs derived from circumstances.
 - (4) Proofs roughting from the adminuter or oath of one of the parties.

rules as is now construing rightly the clauses of contrasts, specific provisions shall also be made for cases when the parties having not the same nationality or residing outside Siam, there may be some doubt as to under which law they intended to contrast.

PART 7. SURETISS.

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the obligation . Fledge and Mortgage are real sureties.

Preferential rights on movembles, preparties,
will only be included in the code of obligations,
the preferential rights on immovemble preparties
'I would rather leave for the next part of the
Civil code, where questions connected with
tennurs of lanc shall be next with:

PART 4. RUIES OF SPECIFIC CONTRACTS.

This lest part shall contain the rules
governing the most impotent centracts such as
sale, sale on trust, exchange, gift, leans for
consumptions or use, hiring of properties or
services, associations (Including Civil of
commercial societies for which a draft act has
already been prepared) Extency, Deposit, Business
management, Unjust, Bill, promissory notes,
choques and other negociable instruments, &c.

ruldings which ir. L. Evenque is to compile thall be classified under the above headings.

So, when taking up later on the work of the code of Obligations, we shall be alle to find out for each specific point of law what is the size laws and practice.

I intend the report every month to the Minister of justice how the work is progressing.

สการาการผเกาไทย วนก่าว "เกิลแ betober s. ศ.1907

G. Padoux, Esqre.

Legistative Adviser.

Sir.

Damrong, to acknowledge the receipt of your letter dated the 30th Sept. sending to H.R.H. a copy of a memorandum on the Siamese Law, Which you have drafted and submitted to the Minis-try of Justice. H.R.H. has looked through the draft, and entirely agrees with the line of the codification you adopted, and



desires me thank you for sending it to him.

'I have the honour,

to be.

Yours Obediently.

Phra montre

Private Secretary.

Mamoranam

Mr. Ladour Legislaan annin G. H. R. H. Gring Agini France, Minister of Susting

Page Pagering to may encurrending of the 28th expansion 1 beg to report their mer since the precoming work has been done by nor. I breque in cransation was the pageons when the pageons when the pageons with the stagestion.

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Meanerbandum.

Mr. Paderex, Regislative Adviser, to H.A. H. Prince Rafbure Direction, Minister of Justice -

work has the done by Ma Yi Ever que; vir some

during the months of women in commercion with the proposed Code on Obligations:

Gerusol of the . Mortgage Class of the

General of the Court Judgerments of the Diller Court as (not published) for the year 125 b half the year 128.

Octogether, about \$ 30 judgements were commonly and abstracts classified under the various headings menhaned in the memoraindum of the Odth september.

Lowing Sollion Salugathorn has given valuable about one for translation and persone of the brances touts.

Two interpreters and have four four to be proved parties and homes to be proved parties and homesing decenter.

II december 1907.

HELIORANDUM. -

P. Padoux, Logislative Advicer,

10

His Royal Highness Prince Hajburi, Minister of Justice.

In the memorandum which I submit ed to the Ministry of Justice on april 10th 1907, the following was said about the future of Codification of Civil Procedure:

The codification of Civil Procedure is at present most advanced. His Royal Highness Prince Pabbi has completed last year a consolidation of the various acts and regulations dealing with Civil Procedure. A draft act has been so prepared, numbering 148 sections and including all the rules actually followed in the Siameses Civil Courts.

. "A consolidation of the law of organization of the Courts in 37 articles has been compiled at the same time.

now as they stand, and shall constitute a considerable improvement in the way of clearness and consistency of Rules of Procedure. But it is probable that after the Penal Code, the Code of Criminal Procedure, and the Civil Code have been promulgated, a readjustbent of the Pules of civil procedure will become ne-

Ministry of Justice. Jan. S. 1908.

MEMORANDUM

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e Bangkok Times Press. Limited.

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BANGKOK

sec. 29

1997

Sees the Pasoux will you be good month to send we the want of the French members of the Staff of the hinistry of Justice - for inversion in the Alphabetical thirty of Justice - for inversion there is one hist of the Directory? I inversion there is one hist of the Directory? I inversion there is one hist of the Directory? Superstant there is one hist of the now, and others expected shortly, but your leve now, and others expected shortly, but your leve now want is the only one I have received.

Linistry of Justice. Jan. 3. 1908.

Dear Mr. Mundie,

at the text of the second

of the Ministry of Justice is Mr.

L'Evesque. C. Secretary to the Commission of Codification.

Three young men are expected to be here in march. Their names are Laurent,

Laydeker.

Pradère-Niquet.

Truly yours.

January 3r4. 1908.

OMOTS THE

Mr. radour, Logislative Atvisor,

to

H.R.H. Prince Rajouri Dirokris

Minister of Justice.

- 1. Beg to report that the following work has been done during the work of December, in connection with the proposed Code of Obligations:
 - I. Perusal of the following fiamese Laws:
- 1. Latsana Mothrong Tone T1;
- 3. Laksana Bet Set:
- 8. Hining Act;
- 4. Law on Mayigation;
- 5. Hackney Carriage Act;
- 8. Post Office Act;
- 7. Local Samitation Decree:

II. Perusal of the following judgments:

- 1. Appeal Courts Final judgments (part of which being appeals against judgments of the Court of Foreign Causes).
- 2. International Appeals Court's juigments.
- 8. Dika's judgments (not published) for the second helf of the year 188 the first and helf of the year 188.

About 800 judgments were summarised and abstracts classified under the various headings montioned in the memorantum of the 28th. September.

The Siamese Laws which we took or intend to take into consideration are:

I. Civil Laws:

1. Law on Debts or Laksana Koo Ni.

- 2. Law on Dvidence.
- 3. Law on Limitation or Laksana Rap Fong.
- A. Laksana Betnet.
- 5. Law on Slavery or Laksana Tat.
- 8. Law on Pawnbrokers.
- 7. Copyright Act,

II. Aministrative Laws:

- 1. Laksana Pokhrong Tong Ti.
- 2. Mining Act.
- * ?. Law on Mavigation.
 - 4. Law on State Railways.
 - 5. Hackney Carriage Act.
 - 6. Post Office Act.
 - 7. Local Sanitation Decree.

I would be glad to know if the Ministry of Justice knows of any other Laws than those above mentioned and those published in the two volumes compiled by H.R.H.Prince Rabbi, which might contain provisions dealing with civil matters or any matters connected with obligations, contracts and general principles of Laws.

Ministry of Justice. Jan. 6. 1908.

Dear ir. Strobal.

Hemorendum which I have prepared for the Linister of Justice of the future of the Codification, in connection with my leave and the engagement of some more assistants. Would you knidly so through it and see whether ou have any objection to ist contents or wording.

I will call t your of ice either on ended and or Thursday next to speak you about the natter.

I borderonom mais faid to Ainzapheo on the Three of Indication

Very truly yours,

Winistry of Justice.

Mr. Padoux, Logislative Advicer,

. 20

Ris Royal Highness Prince Rajburi Direkrit.

Winister of Justice.

Your Royal Highness.

which I submitted to Your Royal Highness a few days ago.

I have the honour to ask the Ministry of Justice for a leave of absence to Europe. My original agreement with the Ministry of Justice was signed in Paris on the Sth. of December 1904. I left Marseilles almost immediately and reached Bangkok on the Sch. of January 1905. The third year of my service will be completed at the end of the present month, and although my family and myself have kept well in Sign, we do not feel able to stand a fourth hot season in the tropics. If your Royal Highness would kindly grant my application, I would like to be allowed to leave on the 16th. or 17th. of March 1908, so as to eatch the French mail due in Singapore on the 29rd. of March.

since the Siamese Government is anxious that the work of codification should not be delayed, it occurred to me last year that it would be a good thing to take advantage of my leave and stay in Paris to push it forward. In a memorandum dated loth.

April 1907, I accordingly expressed the following views:

minary draft or the Gode of Oriminal Procedure, as well as for the compilation of the other drafts, an Assistant Legislative Advisor will be necessary. One single man, whatever his seal might be, cannot carry out alone such

considerable work as general codification entails. Large and comprehensive laws are to be looked at by several compotent persons. One points out the defects which the other one might overlook. Besides, to undertake it alone would exceed the time which one may expect to be able to stay in a tropical country live sign. For those reason: and after the experiment I have made with the pomal Code, I would not dare to undertake the codification of the Civil and Quemeroial Law of Sinm without the assistance of some able porsons. One assistant and one secretary are the minimum staff one may require for such an inportant work as contemplated by the simmer Government. Firstlar work has been carried out in other countries by commissions including a large number of trained largers and officials having the practice of the Bode system. I do not think that a gonoral codification was over commenced with such a small staff as the one I propose to appoint.

tent are not required just now; the graliminary work for the Code on Obligations will be carried out by the Socretary, and I meself will propage the Code of Original Procedure. I could therefore, - if the Covernment agrees on the principle, - solect the Assistant on my next leave only.

earning the Gode on Obligations be ready by the middle of the year 1909, the shortest process I would recommend to the Governmentfor the proparation of a proliminary draft is to make the framerk of it in Europe. For doing such a work quickly and safely, one must have at hand all possible mease of information, either books or opinions

lative Advisor and his Assistant would be able to too to on the general distribution of a Code on Obligations and to frame out the most important provisions of it in less than half the time it will take in Bangkok. Being been on the abstracts implied in Siam it will embody the Siamose practice as well as the best results of modern jurisprudence. When coming back to Bangkok, we might in rather short time put it in the form of a traft Code to be submitted to a Commission of Siamose Larvers and Advisors, and afterwards revised by a Higher Commission.

Just in the same way as was so successful with the Penal Code.

. Since this semorantum was written, the Siamose Government has engaged the services of M. . L'Evesque, a foctor in Lev of the Paris University, who arrived in Bangkok on the beginning of September and has already given valuable assistance in compiling abstracts of the Siamone Civil Law. The part of his work connected with Obligations and Contrates will be completedes I expected, by the middle of 1998. In other words, the work could be accomplished as proposed in the memorandum of the 10th April. I do not think it necessary to discuss at longht the urgency of ongaging the services of an Assistant Legislative Advisor. The more I consider the question of codiffing the Civil Law and Procedure, the loss I feel inclined to take up alone such a large and important piece of work. To my personal knowledge, there is no instance that a Covernment has found it said to entrust one man even with a simple revision of an existing Code, or that a lawyer has been so bold as to undertake it. I would neither accept nor advise my assuming so great a responsibility.

As to propering part of the work in France, I consider it would both pave time and produce, a better result. There are very few places where lawyers entrusted with the compilation of Godes may find the necessary books and information. Before laying down the foundations of a Civil Code, one has to mele up his mind on several fing and fundamental distinctions. There will be for instance a question whether we shall follow the plan of the French Civil Cote, that in to may the system of the "Institutes"or the system of the "Pendocts" shopte by the German Code. I do not think it possible to settle these points in Bangtok. These are questions on which one is naturally compelled to sommult with jurista and to hear expert dpinions. I mysulf have not considered these questions for a long time, and I am afraid my prosent knowledge is rather inadequate or out of fashion. as I could not keep informed of the latest theories in legal science. Besides, the framing of a droft Civil Code involves a number of queries which are impossible to answer without the proper books or technical mon. Points will undoubtedly be raised which would dolay us for weeks in Bangkok, whilst in Paris they may be investigated and sottled in a few hours.

Controller Controller

As to the length of time to be devoted to the work in France, it is difficult for me to give now any definite figure. For the selection of an assistant, I think of stopping for a few days in Egypt on my way home and seeing whether I can find there a young man being conversant both with French and English Law, and having a full knowledge of the English language. I hope that either in the French Law School in Caire or in the mixed Courts there may be semente fulfilling these

conditions. If not I will select him in France. At any rate, it is unlikely that the services of this man can be aveilble before the fudicial year is finished and everyone has taken his usual holfday. On the other hand, I shall have on my arrival in France, to look after the printing of the French and English versions of the Fengl Code, and to do some work in connection with the Original Procedure. Besides, I do not expect to receive the abstracts made by M.L. Evenque before the month of September. The work on the Jode of Obligations might be started in the beginning of October. I expost that in five months it will be ready for submission to a commission in Bangkok. I would therefore ask Your Royal Highess for one year's loave from the date of my departure in March next. Though this time prove to be insufficient, I will report the matter in the time to Your Royal "inhuese" decision.

The foregoing proposal is merely the development of the scheme submitted in April last. But, looking at the numerous difficulties which we have experienced since M.L'Evesque's arrival in summeriaing the Sigmere legal materials and putting them into the shape of cottified rules of law, I feel that the work of codification will prove extremely hard, and although I am still propered to take it up with the assistance of a single deputy, I do not feel so confident that the work will be ended shortly and that its outcome will be satisfactory. Taking into consideration the length of the future Code (wis. 4 to 5,000 soctions as compared with 240 sections in the Penal Code)-the composition of the staff (that is to say the Legislative Advisor, the Assistant end the Secretary)- and the unavoidable delay resulting from absence, illness, printing, translation, etc. I cannot guarantee that the Codification will be completed

even in ten years.

the work to be done in a shorter period and to be really satisfactory, I would advise entrusting it to a complession consisting of four persons, that is to say the Legislative Advisor and throu Assistants.

One Assistant I would sulent on by arrival in France, so that he might join the staff of the Ministry of Justice in October 1908. He would be put in charge of the Join of Griminal Procedure and might mayon a preliminary fraft ready for any April 1908.

ants with me in Paris and start the work with them in the beginning of October 1908. Then, instead of taking up only the matter of Gode, on Obligations, as proposed in the first scheme, we would lay down the foundations of a comprehensive Givil Jode including all tatters commented with Jivil and Jemmercial Law, that is to may about twice or trable the matter of the Gode on Obligations.

We would not have time of course to make the whole traft.

But we might do what follows:

- 1. determine the general scheme and division of the Code:
- 8. compile a full and accurate draft of the part of the Code concerning Obligations;
 - 9. settle every important and disputable point in the other parts;
 - 4. Traw up such other parts of the Jode as to not involve a full knowledge of and a constant reference to Siamese Law, namely several parts of the Johnson cial Law.

The matters sames with personal status, that is to say family, marriago, inheritance and

tenure of land would be left apart and taken up on our arrival in Bangkek.

By proceeding this way, the Sigmose · Government would have much better work done. The cooperation of four technical men who are jurists and trained in every matter connected with codification is a guarantee that no errors or gaps will be left in the drafts, each section being discussed in full meeting of the Commission, and each member controlling the work of the other members. On the other hand there will be no fear of lack of narmony between the different books or chapters. If we start with the Code . of Obligations alone, we shall have for instance to make provisions in this Code for the capacity of persons, childron under age, married women, insance, etc. because the capacity of the parties is an essential element in the conclueion of any contract. But this means that questions regarding capacity will be decided before the rules appliedble to personal status be drawn up, that is to say before the law concerning marriage, rights of parents and guardians, etc., is eximined and determined. If yo do not take up this law until after the engomment of the Gode on Obligations, wo may come to a dead-lock when trying to make the new provisions consistent, with those already promulgated. On the contrary, if the several parts of the Civil Law are taken in hand at the same time, there will not be any possible lack of harmony. Whenever a principle of law is discussed or adopted, the Commission will be able to see at once what consequences it involves and what influence it may have on the other parts of the Law. No final decision will be reached on one point without the other points being made consistent with its a market speciment with a soul we are about the

much method and coherency. If entrusted to one or two persons

bring it to completion. Any alteration in the direction of the work entailing alteration in the spirit and method, may be highly detrimental. It is not safe for a Covernment to let the inture of so important an senievement depend on the health of one or two Advisors. If the second scheme which I now submit to Your Royal Highness be adopted. We would avoid the risk, and we might confidently expect that the whole set of Jodes and Laws included in the general codification will be completed by the end of the year 1911 or at least faring the year 1912, that is to say in about four years.

It would be a great achievement for the Siamese Jovernment and a vast improvement in the efministration of justice. Besides the great advantages which Siamese subjects will derive from the promulantion of Ondes that are simple and clear, the Government will, by the operation of the treaties, recover its full jurisdiction over Japanese subjects and French Asiatic subjects and protoges. thus doing sway with the Japaness Consular jurisdiction and with the French system of International Courts. The success of any eventual transfer of jurisdiction over Europeans also largely depends upon the future of Codification. It would not be advisable for the Siamose Government to accept such transfer unless they are prepared to push forward the Legislative work. Jurisdiction over Europeans means jurisdiction over large business firms likely to have important lawsuits in Court. How might the Siamess Judges safely deal with these cases in the absence of a definite Civil and Commercial Law? Their judgments may want a legal basis and meet with a considerable am unt of criticism. In that respect, I would call the attention of

the deverment to the legal position of the other persons who have been or are to be transferred from a fereign Consular jurisdiction to the Slamese jurisdiction or to the jurisdiction of the International Courts. Those persons are or were under different legal systems which are not perhaps too well suited to this country, but have the great advantage of being definite and comparatively easy to ascertain. They cannot consider as satisfactory a system like the present Biamore one where there is generally no written law. The Foreign Powers which have consented to concessions of jurisdiction have accepted that system because they understo d that it was a transitory one to be shortly superseded by a set of Sodes. Loking morely at the interest of the Siamese Government, I should say that it is not safe to allow the transitory period to last too many years, thus giving to the Foreign Legations occasions for criticising the administration of justice or the inadequacy of the Siamose Law. .

The adoption of the full reheme for the completion of the Codes in four years would not alter my anticipations as to the length of my stay in Paris. Except for circumstances not under my control, I think that five months will very likely be sufficient.

I have the honour to remain.

Your Royal Highness' most faithful.

Approximate · Cost of Codification.

. Padoux's schemes

Ist	sch	eme ·		Salary.	Rent.		
	I	Assistant	at		Tos.	1500	200
	I	Secretary	at		Tcs	900	100
		•			Total	2700	per month
		or To	s. :	32,	400 par	3.	•

2nd	sh	91116	Salary.	Rent.		
•		Assistant	at	Tes	2000	250
	I	Assistant	at	Tos	1500	200
	I	Assistant	at	Tes	1500	200
•	I	Secretary	at	Tcs	900	100

Total. 6650 per month

or Tes. 80,000 per annum.

In addition, there would be the usual expense for clarks, printing, &c. &c.

Under the first scheme it would take ten or twelve years to finish the Codes, and perhaps never......Total cost say.....388,800 Ticals.

 Jan. II. 1908 -

ARMORANDUM. -

shall soon come into operation, the Ministry of Justice will probably think it advisable that some practical directions to steen to the Judges as to how the fore is to be sorted out.

purpose to have so a lectures lelivered on the subject just after the remiration. I cannot undertake to do that myself, as I expect going on leave by the middle of arch, but I would recommend that the sort to entrusted to br.

Baudour, who has been trained in the code system, and who has been noting as Advicer for Criminal cases in the Provincial Appeal Court for many years.

A sourse of about 10 or 12 clear and practical lectures would be quite sufficient to exhaust the subject. Er. Baudour could propare these lectures just now, whilst I am still in Bangkok, and I would give him any information and directions he might want, so as to prevent misinterpretations. The Judges and students who are conversant with english ought to attend these lectures. I would also suggest that the young Advisors in the Ministry be

present, since they will have to advise the local Courts on cuestions of construction or application of the Code. One Siamese Judge could be entrusted with the duty of translating the lectures and delivering them in Siamese to those Judges who so not understand english. The Siamese text could be printed and distributed in the different Siamese Courts for the Judges the could not ettend the lectures.



ศาการมเกาไทบ

Jumintwidu January s. A. 1908

Dear Monsieur Padoux,

I am directed by H.R.H.
Prince Damrong to send you herewith for your information copy
of a letter which H.R.H. has just
received from Mr.Michell Innes.

Yours truly.

Phya Sri Saha Mul.

Ministry of Finance Dec. 81.07

My lear Prince Dearong

that for a definite object. I have heard that the Siamese Government is preparing a code. Whether civil or criminal. I do not know, but it makes no difference. The idea fills me with misgiving. We are suffering in Egypt under the curse of a European code, both civil and criminal. I would give years of my life, if only I could sweep them away, and follow the laws which existed here, before Egypt came much in contact with Europe. European methods of administration are undoubtedly far superior to the methods of the East, and the East has much to learn from Europe in this respect. But the introduction of European codified laws is a misfortune.

acknowledged failure, and when appliced to the Bedouins, it becomes an irksome and embarrassing farce. And the code of civil procedure is equally unsuitable, and many of the provisions of the civil code are far more than unsuitable. The introduction of the European theries of debt and of real property. I regard as one of the most unfortunate things which has ever been done. Of course, the English are not respondsible for them. They are introduced before we ever appeared on the scene.

There is no code existing in Europe today that could be put in force in its entirely, without creating a revolution. The naked code is modified by innumerable statutes, which soften its

action.

action.

of landlord and tenant. If a tenant dose not pay his rent, according to the coie, he is a debtor and can be turned out, and everything he possesses can be sold. But the terrible hardship of eviction has been recognised in most, if not in every country of Europe, and there are elaborate land laws, which serve rightly to modify the action of the code

The European law of debt is excessively cruel. It is often better to be a criminal than a debtor. I expect that the customary law of siam is less savage, and if so, I trust the government will not modify it to make it fit in with the European law The provisions of the latin codes recarding what are called, I think, "saisies conservatories", in the case of claims for debt, should never be introduced. They exist here, and cause very serious hardship. They do not exist in England.

When new principles and new procedures are introduced into an old country, people do not forsee the harm they may do. If Prince Rabi is still Minister of Justice, as I hope he is, do tell him what I say and beg him to go slow and not to introduce new principles from the latin codes, under the impression that, because they exist in Europe, they must be right Many are certainly wrong, and we are slowly and painfully changing them.

will you do a kindness to me. I am very much annoyed that I did not see The King, either on his way to Europe or on his way back. The fault was not mine, but with the Master of ceremonies. When His Majesty came to Europe, I particularly asked the Master of ceremonies to give me notice when the ship was

expected. He promised to do so, but did not, and conbequently I did not hear of the arrival of the ship
till it was leaving. On his Majesty's return, I again
begged to be told the hour of arrival of the ship, for
the purpose of going down to Port Said. A telephone
message came to me from the Palace to say that the
ship was arriving late at night, and would at once
enter the canal, and I was advised under the circumstances not to go, as it would be useless. Consequently
of course, I did not go.

Will you tell His Majesty from me that I deeply regret my apparent neglect and want of respect, which has constently been in my mind. I cannot say how annoyed I am about it, and I shall be deeply grateful to you, if you will be so kind as to explain it. Another time, I shall not trust to an Egyptian Master of Ceremonies.

A great friend of mine, a Mr. Wells, who has been advising the Egyptian Govt: on mining questions, thinks of going to the Malay Peninsula to see the tin mines. If he goes, I will give him a letter to you. He is a first rate man, and absolutely trustworthy, a thing which cannot be said of all people connected with mining.

Believe me my dear Prince.
Yours very sincerely.
(signed) A. Michell Innes.

Ministry of Justice. Jan. 19. 1908.

Mr. Padoux, Legislative Adviser,

min to be as

His Royal Highness Prince Damrong, Ministre of Interior.

Your Royal Highness,

I beg to enclose a copy of a memorandum on the Codification which I submitted to H. R. H. Prince Rabi a few days ago, and which I understand was sent to His Majesty.

In this momorandum I propose that a Commission of Codification be appointed including three new legal men, with the assistance of whom I trust that the whole of the Codification could be completed in less than five years from date of appointement. The attached schedule shows that the expense would be almost the same as if I was to spend on the work double or treble the same period of time with one assistant only.

would support the scheme when the question comes before the Cabinet?

I feel very strongly that for the sake of the work and for the success of any future negociations concerning exterritoriality the Siamese Government would do a good ting in deciding the completion of the codification in five years. I am certain that as soon as some

Powers over European subjects, the Government will realize how badly clear and precise laws are wanted in Siamese Courts. I discussed the point at full lenght with the regretted General Adviser, I might say that ir. Strobel's view on the subject was perhaps stronger than mine.

Phya Sri Sahadheb has forwarded to me a copy of the letter which Your Royal Highness received from Mr. Mitchell Innes. I think I am quite agreable with the ideas expressed by Mr. Mitchell Innes. His letter seems at first sight destructive of any scheme of codification. But it is simply a matter of construction of the word "codification".

By "codification" Mr. Innes means
introduction of brand new codes taken from Western
countries. This is the very thing I would never
advise to do. Siam is Siam, and the Siamese law
must be a national law adapted to the wants of
the country.

what I mean by "codification" is putting the local laws in a clear and definite form, sweeping away all inconsistencies, omitting whatever is obsolete or out of use, and reducing the matter of hundreds of volumes of regulations, case-law and commentaries into the shape of some hundreds of sections, so as to enable the man in the street to be easily aware of his duties and rights. This does not mean reference to any particular system of laws other than the system

which the Siamese Government will consider the most suitable to the inhabitants. To take the very illustration recorded by Mr. Innes, I would not like to introduce in Siam a new aw about landlord and tenants. I would like to codify the preent law on the subject. This is why previous to any work being done in connection with the Civil Code I caused abstracts and summaries of the present law to be made, which I shall use to lay down the foundations of a draft Civil Code.

I have the honour to remain.
Your Royal Highness most faithful

Ministry of Justice. .
Feb. 4. 1908.

MEMORANDUL. -

Pr. Padoux, Legislative Adviser, .

10

His Royal Highness Prince Pajhuri Lirekrit, Minister of Justice.

I has to report that the following work has been done during the month of january 1909 in connection with the proposed Code on Obligations:

- I) several aws have been pured, viz.;
 Sinte Mailways Bye-Laws and Tariffs,
 Laksane Rab Fong,
- Various provisions of law saling with compromise in Court (Laksana Chone, sec.45; Laksana Aya Luang, sec.45 & 105; Laksana Hab Fong sec.86; Laksana Talakan, sec.98 &c.)

Law on Bankruptcy.

- were summarized, including the second half-year ISS and the first half-year ISI.
- 3) Mr. L'Evesque has begun putting the mastracts of laws and judgments in their definite form, which we have tried to make as clear and complete as possible.



12/2 mm

บระมรวงสัญธรรท

วันที่ ใช กุมภาพันธ์รัทนโกสินทรศัก •bb

แจ้งกวามมายังมองชิเออร์ปากุซ์ เลยีศเลกิฟแอกไวเซอร์

ค้วยทระเจ้าฉูกูขาเลง แผนาบดีกระทรวงยุติมรรม

มีรับสั่งให้ข้าพเจ้าแจ้งความมายังท่านว่า ไค้ทรงพระกรณาโปรค

เกล้า พระราชทานพระบรมราชานุญาตให้ท่านลาตักมีกำลนคหนึ่งปี

นับตั้งแต่วันที่ ๕ มีนาคมศกนี้เป็นต้นไป โดยเข้าพระไทยว่าการ

ที่จะรวบรวมกฎหมายนั้นคงจะทำต่อไปในประเทศยุโรป แลได้

ทรงพระกรณาโปรดเกล้า พระราชทานพระบรมราชานุญาตให้จ้าง

นุ้ชวยแท่งโด้ตตามที่ท่านได้แนะนำซีกสามคน กับให้จ้างหมอกฎหมาย

ฝรั่งเศสธีกคนหนึ่ง สำหรับมาเป็นผู้ที่พากษาประจำในศาลลุทธรณ์

กรุงเทพ ค้วย แลในระหว่างนี้ได้ขอให้มองชีเออร์เนียลมาเป็น

ผู้ที่พากษาชั่วคราว จนกว่าผู้ที่พากษาประจำนั้นจะได้เข้ามาถึง

กรุงเทพ ถ้วย

โดยโอกาศนี้ ขอแสดงความนับถือมายังท่านด้วย

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Ministry of Justine 15 February 120

H. Iz. Zhyn chirtrapersi leneus serekun - Fora

La

Mr. G. Bulling registering eletions

The Minister of French day, when I me to inform you that the R. H. The Fring yours your fact acres winter from the 15th of march and in inchestant Marty of wind your doing the work of cody atten in him, and a gives you farminant to engage that unistant for the codification, as adoined by you, and to engage a French doctor in law to be a Judge in the Bringhor capeal Goot. During this time, Judge mich will ado as Indee in the Danger mich will add as Indee in the Appeal Court, until the new Judge womes.

MEMORANDUL

dr. Padoux, legislative Adviser to

His Royal Righness Prince Rajburi Direkrit

Linister of Justice.

I beg to report to Your Royal Highness that, during the nth of February 1948, the following work has been done concerning be proposed Gods of Obligation:

Dika's judgment of the year II7, II8, II9, I20, I21 (second lart) have been persued and about three hundred and thirty five if them selected and summarised.

Abstracts have been dram cut of the following Laws:

Code of Civil Procedure. Part 16. Excution of Decree and
orders.

Law for ebolition of Slavery (138)
Phra Raja Banyat of the fifth Reign

- I) Law on interest (1250)
- 2) Law regarding documents (1232)
- s) Town Police Law (1257)
- 4) Law regarding the sale of cattle (1230, 1239, 1246)
- 5) Frakat forbidding forward agreements for sale of paddy (1359)
- 6) Law on collisions (1243)
 - 7) Additional Law to Lakeana Loo Re

Several of the foot notes published by Your Royal Highness with the Mika's judgments have been translated and classified under their proper headings.

THE NEW CODES.

in Just Upply

Rame Marie

We have been to the Penal and countries in the not in be regarded as a foreign innovation merely. It is being on the old the Crimital Law. The jurish who have been capaged is framing the new code have carriedly considered the conditions, that axis to the When introducing introducing from the European-Codes. The subjects dealt with in the Penal Code, and the definitions and and general principles. capaciated the Penal Code, and the continued and general principles consciented therein, are alike in all countries, what her been code and or not. The the law has been cod fied or not. The delay is the drafting of the Code has been due to the coreful consideration of the new principles which have been thought in the code for likes.

THE CIVES AND COMMERCIAL CIDE.

The next most important step is the firming of a Civil and Commercial Code. M. Padous, who is now in Paris, is working on the outlines of the new code. M. Padoux has engaged there senior hargers to aid him in his work. M. Padoux and two of his assistants are now preparing the framework of this code. They are working in Europe scimerily because, all the necessary books for reference are found only in European Capitals, especially in Paris. In the meantime, M. L'Bre-que is now engaged in Bangkok in collecting material for the Code. When M. Padoux and his assistants come back, next March the details of the Code will be dealt with. The fhird of the code will be dealt with. with. The fhird of the assistants whom M. Padoux will engage, will arrive in Bangkok about October, and bagin work on the Criminal Procedure.

The Civil and Commercial Code will be

comprised of: -

(1) Law of Persons, including capacity; nat onality; domicile; marriage; property of husband and wife; divorce; comesquences of dissolution of marriage; adoption of children with the rights of parests over children; guardianship; giffs; inheritance; administration, etc., etc.

etc.

(2) Property-Real or immorable property including exsements and servicedes, mortgages etc. Personal or morable property including possessions pledges etc.

(3) Cairocis and Obligations;—The making, educt and termination of contracts; suits in segard to specific hinds of contracts; sale; ioan; hiring; surety ship; egotiable instruments, etc., etc.

CRIMINAL PROCESSER Cops.

The fenal Code baving been completed, it is essential that a Criminal Procedure Code should be drafted. The majorial for the code is now being got together, and as already stated, one of the senior havers engaged by M. Padouz will begin work on it as soon as he arrives in October.

Assessing Acr of Circu. Decc. pres

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was provided by the provided and provided and care and writ of assents
will be insued at out, and the defender,
can easily have the a suppended pending appeal, to
appeal to make deposit
to cover the case of the other side. The
provided provided has been reduced. Formerity, 2) if on the sunguest claimed had to be
paid as from to making how large the claim
for Fer. 400,000, ticals 10,000 had to be
paid in fees. Now, while the scale remains
a 21%, the maximum has been final at
cals 1,000.

This amended Act of Civil Procedury
this drafted by a committee commons

This amended Act of Civil Procedur, which drafted by a committee composed of H. R. H. Pring: B jaburi, Minister of ustice (Precident); H. E. Phys. Chakrapini (Under-Secretary for the Ministry of Justice; all the Chief Justices in Bangkok; Mr. J. Stewart Black (Judici al Adviser); and Mr. W. A. Gi Tilleke (Attorney-General). The Code was drafted in Siamese, so that there was no frouble about translation.

BANGEUPPCY LAWS

A new Bankruptcy Act has been drafted, and has received the Royal Sanction recently. The Act provides that if the a politers of a debtor can satisfy the Court that the debtor is unable to say his debts, the Court will immediately seen, his property and distribute it. It is not intended for small bankrupteies, so the petitioning a reditor must have a chim is not less than theals 1.000.

THE OF BE COMMET IS When M. Pedoux refurns with the three Paris, the permanent Code Commission for Siam will be complete. M. L'Ererque, now working on the Civil Code in Bangkok

The New Code in Bangkok is already a member.

In the drafting of the new Codes, the abolition of extra territoriality in Siam has always been kept in view, and the law has been so drafted as to meet the needs of the different nationalities in Siam. There was an great difficulty, in this respect, in drafting the Penal Code. But in the Code, Code, comprising, among other thing. drafting the Penal Code. But in the Civil Code, comprising, among other tung. Arriage and divorce, it will be an uphill tak to reconcile and adapt the law to the liveral communities in Siam. In such antitors to be invariably been the practice of legislate according to religion. The filled jurists engaged on this and other order will no death to be requirements.

Office of the General Adviser. Pangkok, 14 June, 1908.

STATES OF COMPANIES IN

Considerable perturbation has been exceed a the invarial circles of Culro and Alexandria by the invarial circles of Culro and Alexandria by the Judgment of the Mixed Court of Appeal which has presented of the nullity of the Olive and Agricultural Lands of Exppt (Limited) on the ground that under international law the committee and the English nationality, having been has not an English nationality, having been handed in Expl with an administrative control there. Exclish companies with an administrative control on the English companies with an administrative control of the English and the tame are not affected by the judgment, and the tame remark probably applies to companies originally formed with a tracel in Engine and since takes before the an administrative centre in Egypt. The learned to an administrative centre in Egypt. The before modes takings to now Egyptian companies founded for the purpose. This area accountily depend on

like to take some part in the same to control to companie originally and the formation originally and the formation originally and the formation originally control to companie originally control of control in the same of companie originally control or control in the same of control or same or

ter.

of course, whether Er d'Orelli is to be asked to assist in this work or not, depends entirely upon you, and I have been obliged to reply that he must apply to you if he cares to pursue the request. Since, however, he has already mentioned it to you and you have not given him an affirmative enswer. I have thought that it must be because you did not see your way, for some reason or other, to meet his wishes. Although, therefore, as I say, I have been obliged to refer him to you. I have (as you will see by the enclosed copy of my reply to him) tried to find a way out of it if you do not care to arrange for him to come into the work.

You will understand that I should like to have you consider this communication as confidential.

Sincerely yours.

fens f. Westing and

S. OS Might



Office of the Seperal Advicer. Penskok, 14 June, 1908.

Bear Hr Padoux.

that he would like to take some part in the work of codification, and expressing the wiew-that he might be useful because of his knowledge of law and of languages. He has naked me to suggest how he whould go about the rat-

ACCES TO THE STATE OF THE SECOND

asked to assist in this work of not, depends entirely upon you, and I have been obliged to reply that he must apply to you if he cares to pursus the gequest. Since, however, he has already mentioned it to you and you have not given him an affirmative enswer. I have thought that it must be because you did not see your way, for some reason or other, to meet his wishes. Although, therefore, as I say. I have been obliged to refer him to you, I have (as you will see by the enclosed copy of my reply to him) tried to find a way out of it if you do not care to arrange for him to come into the work.

You will understand that I should like to have you consider this communication as confidential.

Sincerely yours.

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HEHORANDUH.

Mr. Ch. L'Evesque Secretary of the Commission of Codification

to

Phys Chakrapani Under-Secretary to the Hinistry

According to Mr. Padoux's direction. I beg to sport to Your Excellency that during the month of June 1908 the following has been done by the egislative Advisar's Office.

- of report on the legal rules concerning property and rights to property in Siam (which said report has been sent abroad to be deferred to Mr. Padoux's approvel).
- Advisor p.i. a draft of an act for the naturalisation of aliens in Siam and of Siamese subjects aborad.

Ch. L. Evergue

39th. June 1908.

MEMORANDUM.

Mr. Ch. L. Evesque Secretary of the Commission of Codification

10

Phys Chakrapani Under-Secretary to the Ministry of Justice.

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Ch. L. Evergine

29th. June 1908.

Ministry of Justice.
7th. July 1908.

Phys Chakrapani,

to

Mom Udom.

M. Padoux who is now in France has requested that he be supplied with funds to defray the expenses of printing the French and English versions of the Penal Code.

M, Padoux wishes to print 1,000 copies of the French versions of which 600 will be distributed in Europe. M. Padoux considers that the distribution of the Code in French and English will be the best kind of the advortisement for Siam.

As the English version is required at once the Ministry of Justice are taking steps to have printed in Bangkok, but about 500 unbound copies will be sent to M. Padoux. He can have them bound more cheaply in Europe than in Bangkok.

The cost of printing and binding the French edition and binding 500 English copies is estimated not to exceed 2,500 france.

The Ministry of Justice therefore beg to request that the Legatian in Paris be authorized to pay for this work a sum not exceeding 2,500 francs on vouchers to be put in by M. Padoux.

Ministry of Justice. 25th July 1908.

Dear Williamson,

I enclose a copy of a letter received from M. Fadoux regarding the agreements of the members of the Code Commission.

The Ministry of Justice will be glad to be favoured with the views of the Ministry of Finance on the two points raised by M. Padoux as soon as possible.

Faithfully Yours.

(Signed) J. Stewart Black.

Office of the Finencial Advisor Bangkok.

Dated 27th July 1908.

Dear Black,

There just seen Prince Chantaburi again about the new agreements for the Codification officials, and, in order not to delay the matter further, he asks me to say he agrees with the view expressed by Prince Rabi, as set forth in your acts to meefer the 28th instant. That is to say, the salary is to be either TCs. 1800- Tos. 2000, or \$198-£160, which ever M. Monoharville may prefer.

There is no objection to the addition proposed by M. Padoux to clause 7 of M. Monoharville's agreement, vis, the words "or after 4 years have elapsed from the date of the commencement of the service of the said M. Monoharville".

Yours singerely, on (Signed) W.J.F. Williams-

Ministry of Justice. 25th July 1908.

Dear Williamson,

Prince Rati came to office to-day and says with reference to Padoux's letter that he agrees to point 1, and that as regards the salary it may appear in the agreement either in sterling or in ticals i.s. the candidates must either take one or the other.

Prince Rabi suggest that ticals now fixed in the agreement, if converted in-to sterling should be converted at about Tas. 14, that is to say the maximum salary is either Tos. 2,000 or (say) £140 per month, the £140 to be paid at the ratecfer the exchange for the day.

As Frince Rabi wishes to telegraph immediately I shall come round between 5 and 4 p. m. to-day, when I hope the matter may be fixed up.

Faithfully Yours.
(Signed) J. Stewart Black.

Bangkok, Siam.

30 July 1908.

Dear Prince Charcon,

I am writing to you in English in order to be able to catch the mail tomorrow. The Ministry of Justice telegraphed to you on the 50th. July as follows:-

"Inform Padoux Point one of letter accepted. Point two candidates may take either silver or sterling at rate of exhbange of last day sach month. If sterling agreement maximum salary of appointments one hundred and forty pounds and one hundred and five pounds respectively. Agreements follow".

You will understand from the telegram that each candidate must make up his mind whether he will take silver or sterling.

Clause 3 of the agreement for the Judge of the Court of Appeal and the appropriate clause of the agreement of the Commission member who comes direct to Bangkok will be aimilarly altered.

The maximum salary in sterling for one member of the Gode Commission is £140. (one hundred and forty pounds) and for each of the other two members of the Gode Commission and for the Judge of the Appeal Court £105. per month. (One hundred and five).

If a rising salary is given then Mr. Padoux may as arranged before give such increments as he thinks fig.

I am directed by the Minister of Justice to ask you. to be good enough to show M. Padoux this letter and to sign the agreements when altered as above.

Paithfully yours,

(81gmed) J. S. B.

P. 8.

The members of the Code Commission will of course be paid in france in France. I gathered from M. Padouis letter that M. Monoharville was getting a maximum of two thousand ticals but if necessary the salaries can be so arranged that two men do not exceed a maximum of Tos. 3.500 (£245) and the third Tos. 1.500 (£105).

(Signed) J. 3. B.

1/850

Ministry of Justice.

Bengkok, Siam.

Both. July 1906.

Dear M. Padous,

I have just time to write a line to catch the mail which leaves to-day.

The Ministry of Justice has written to Prince Charcon to-day and you will find in that letter the agreement regarding the new agreements fully explained.

Neither Prince Rabi nor the Treasury would entertain your proposal but the solution offered has been made by Prince Rabi and I think it is a very fare settlement of the question.

As the men have the chaice of silver or gold, I think you should impress upon them that no matter what the value of silver may be, they should not sign the agreements with any idea that any claim for compensation will be entertained, or that they will be allowed to alter their minds out here, and change from gold to silver or vice versa, if they see that they have chosen the least favourable currency. It would also advisable if you can so arrange it to let the men have identical agreements.

If you find a difficulty in getting good men who understand English it would be just as well to take men who have no knowledge of English. After all the Code is drafted in French, can be translated by competent men in Europe at little expense.

Faithfally yours.

Telegram Siamaduto Paris.

Inform Padoux Point one of letter accepted. Point two candidates may take either silver or sterling at rate of exchange of last day each month. If sterling agreement maximum salary of appointments one hundred and forty pounds and one hundred and five pounds 'per month respectively.

Agreements follow.

(Signed) Rabi.

Pralognam, July 29th, 1908.

Mr. Padoux, Legislative Advisor.

to

His Royal Highness Prince Rajburi, Minister of Justice.

I beg to report that I have engaged as a second member of the Code Commission for the special purpose of drafting the Code of Criminal Procedure M. Guyon, 32 years of age, doctor in law of the Paris University, a former barrister at law, and at present a "Substitut di Procureur de la République à Bourges", that is to say a Deputy Public Prosecutor in a Prench Court

Since I thought the best man for the Criminal Procedure would be a jurist having the gractice of the Public Prosecution, I apply to the Minister of Justice in Paris and caused a circular to be sent to the various French Courts, stating the conditions required and the terms offered by the Siamese Government. Fifteen applications were made. I selected Mr. Guyon as the best applicant and the more suitable for the Ministry of Justice in every respect. I am certain that Your Highness will be satisfied with Mr. Guyon's services. The only weak point is, of course, the knowledge of English. Mr. Guyon understands legal English quite well. At his final examination for the grade of doctor in law me sumitted as a "these" an elaborate essay on the Australian Tonstitution of the year 1900, compiled after the official English documents. But he wants same practice before being able to speak: We arranged that he should stay two months in England during the summer time.

Since I could not examine the several applicants and come to a final agreement with Mr. Guyon before the middle of July, it was impossible for him to leave for Bungbék at the end of September, as originially contemplated. Besides staying some time in England, he is to marry before leaving. Granting him two months in England and three or four weeks for his marriage, he might take the French Mail at Marseilles on the 25th of October.

The salary was fixed at 1500 tioals per month. So provision was asked for a particular rate of exchange, but Mr. Guyon is prepared to accept any loss resulting of any diminution of the exchange value of the tioal, provided such value might not reduced under 1/4. I must say that if there had not been rumours as to a possible fall of the tioal I could have easily arranged the salary at 1400 ticals, at least for two years.

I have received and examined a number of applications for the third place in the Gode Commission, but non of them was satisfactory. It is too late now for making further enquiries. Every one is taking his usual summer holiday. I have then posponed the whole matter up to October next. It might delay the beginning of the work in Paris, but I consider it is better to loose two or three weeks than to make an unsatisfactory appointment.

I have the honour to remain

Your, Royal Highness most faithful

(Signed) Padoux.

P.S. According to the French Regulations, offivials of the Ministry of Justice who are engaged by Foreign Governments cannot maintain their connection with the French administration unless they are provided with judicial functions.

member of the Code Commission as a "judicial position",
Would it be inconvenient for the diamete Government, when
Mr. Guyon arrives in manghob, to provide him with a semminsion as a Judge in any of the diamete Gourts. It would not
cost anything to the Covernment. It might even be useful
for the Covernment to have one more suropean Judge at its
disposal. Besides, Mr. Guyon would have a better practice
of the Siamete Criminal Procedure if he might sit say in
the Criminal Court or in the Provincial Appeal Court for some
time. It must be understood, of course, that since his time
and efforts are to be devoted to the codification of Criminal
Procedure, he would only sit in Count when occasion shall
require.

MUDICARDINA.

of Codification

to

- His Axeellency Phys Chakrapani, Under Secretary of State to the Ministry of Justice.

According to Mr. Padoux's directions. I beg to report to Your Excellency that the following work has been done within the mouth of July 1908 in the Legislative Advisor's Office:-

- 1. With regard to the Naturalization Act, the former draft has been worked again upon new lines. & Rules to be framed under this Act have been drawn up.
- 2. With regard to Codification, the inquiry into the specific modes of acquisition of property in Siamese Law has been started and the matter concerning occupancy, acquisitive prescription and the transfer of the ownership right by the mere effect of an agreement has now been worked out.

Ch. L'Everque.

Ministry of Justice. 10th. August 1908.

Dear Williamson,

* On the 8th. July last the Ministry of Justice wrote to the Ministry of Figurance asking that a sum of 2500 france be placed at the disposal of the Siamese Minister in Paris to defray the expense of printing the Penal Code in French.

We have received no geply to that letter yet, and I would be much obliged if you would let me know if the necessary instructions have been sent to Paris.

This amount has I understand to come out of the special fund set apart for the expenses of Godification wish is the sum of 400,000 ticals.

Faithfully yours.

(Signed) J.S.B.

(Copy)

Office of the Financial Advisor.

Bangkok Sizm.

Dated 11th. August 1908.

Dear Black,

Referring to your note of the 10th, just received, I find that an official letter was sent yesterday to the Ministry of Justice asking for further information as to the source from which the expenditure in question is to be met.

Yours sincerely

(Signed) W.J.F. Williamson.

- สถานราชทุกสอาน

Paris 6 th october 1903

Legation Royale
de

No. 734

fir.

Lesser of 3rd mestant by which you have been grow enough to inform me that in compliance with the airections of the innistry of Instice, the Commission of Codification has segun work on the first day of this mouth.

While thousing you for this kind communication, I beg to remain fir

yours faithfully

minister for Siam

Levislative Adviser

Cares

been practising as lies and sollecting materials for the Criminal Procedure Code. I allowed him to stay a fortnight more in London. He is to leave marseilles on the 8th november. Since his salary is due only from the date of his leaving Prance, I thought that the Ministry of Justice would rather

Paris, October fet. 1908.

Mr. Padoux, Legislative Adviser,

to

His Royal Highness Frince Rajburi, Minister of Justice.

Your Royal Highness,

I beg to inform Your Royal Highness that Mr. Moncharville's agreement was signed on the Ist. inst. upon the terms which I previously reported to the Ministry. The salary was fixed in ticals. Formal copies of the agreement are sent to Bangkok through the Legation.

The Codification work began on the same day. We are engaged at present in perusing the German, Italian, Japanese and other modern Civil Codes; I expect that we shall be able to decide next week on the general scheme to be adopted for the draft Siamese Code.

I am sorry I could not yet find the third member for the Code Commission. But I have got informations about barristers in the Faris Bar who might fulfil our requirements.

been practising english and collecting materials for the Griminal Procedure Code. I allowed him to stay a fortnight more in London. He is to leave marseilles on the 8th november. Since his salary is due only from the date of his leaving Prance, I thought that the Ministry of Justice would rather

prefer that he should be in Bangkok later but with a better knowledge of english.

I have the honour to remain,
Your Royal Highness most faithful

8 Rue Margueritte,
PARIS XVII.

OBLIGATIONS .-

PRELIMINARY - DEFINITIONS.

BOOK I HOW OBLIGATIONS APISE -

TITLE I - CONTRACTS -

Chapter I. - Conditione of validity of Contracts.

Part I. Legal capacity to contract.

Insane persons, Juridical persons.

Part II. Consent express or implied.

I. Proposal and acceptance.

II. Defective consent.

Fraud,
Duress,
Unsoundness.

Part III. Object.

Defined,
Possible,
Lawful,
Not contrary to public policy
or safety of persons and
property.

Chapter II. - Effects of Contracts.

FROTE ON

Part I. Binding effect upon parties.

Part II. Effects as to third persons.

I. restation by third person.

II. Stipulation for the bonefit of a third person.

Chapter III. - Determination of Contracts.

Part . I. By Court.

I. Invalid or defective Contract.

II. Non performance.

Part II. By mutual consent.

Part III. By condition subsequent.

TITLE II. - UNDUE ENRICHMENT.

Chapter I. - Undue prestation

Chapter .II .. - Business management.

Part I. Duties of manager.

Part II. Buties of principal.

TITLE III. - WRONOPUL ACTS.

Chapter I. - What may be considered an injury.

Chapter II. - Persons liable

Chapter III. - Damages.

BOOK II. - OF SOME KINDS OF OBLIGATIONS.

TITLE I. - CONDITION.

TITLE II. - ALTERNATIVE OBLIGATIONS.

TITLE III. - JOINT AND SEVERAL: DEBTORS AND CREDITORS.

TITLE IV. - INDIVISIBLE OBLIGATIONS.

TITLE V. - EARNEST MONEY.

TITLE VI. - PENAL CLAUSE.

BOOK III. - TRANSFER OF OBLIGATIONS.

TITLE I. - BY INHERITANCE.

TITLE II. - INTER VIVOS.

Chapter I. - Assignment.

chapter II. - . Subregation.

Chapter III. - Delegation.

BOOK PV. - EFFECTS OF OBLIGATIONS.

TITLE I. - POWERS OF CREDITORS.

Chapter I. - Enforcement.

Part I. Default.

Part II. Cases in which specific performance enforceable.

Part III. Tender and Deposit.

Chapter II. - Lien.

Chapter III. - Damages

TITLE II. - POWERS OF THIRD PERSONS.

Chapter I. - Exercise by oreditors of debtor's rights.

Chapter II. - Avoidance of contracts made in fraud of creditor's rights.

DOK V. - DETERMINATION OF OBLIGATIONS.

TITLE I. - PERFORMANCE.

Chapter I. - The may perform.

Chapter II. - The may obtain yerformance.

Chapter III. - That ay performance consist of.

Chapter IV. - Appropriation.

TITLE II. - IMPOSSIBILITY OF PERFORMANCE.

TITLE III. - RELEASE.

TITLE IV. '- NOVATION.

TITLE V. - SET OFF.

TITLE VI. - MERCER.

TITLE VII. - PRESCRIPTION.

PRELIMINARY - DEFIRITIONS.

BOOK I. - HOW OBLIGATIONS ARISE .-

TITLE I. - CONTRACTS .-

Chapter 1. - Conditions of validity of Contracts.

Fart I. Legal capacity to contract.

Insure persons, functions, Juridical persons.

Tart .I. Consent express or implied.

I. Poposai and acceptance.

II. Defective consent.

Mistake, Fraud, Duress, • Weakness of mind

Part III. Object.

Defined,
Possible,
Lawful,
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parenty of persons and
property.

Chapter II. - Iffects of Contracts.

Fart I. Binding effect upon parties.

. Part II. Effects as to third persons.

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II. Stipulation for the benefit of a third person.

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II. (Non performance.

Part II. by mutual consent.

Part III. By condition subsequent.

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Fart II. Duties of principal.

TITLE III. - WRONGPUL ACTS.

- Chapter I. - What may be considered an injusy.

. Chapter II. - Persons Itabis Responsible persons

Chapter III. - (Darages assessment of)

MODIFICATIONS TO

BOOK II. - - OPLIBATIONS.

TITLE I. - CONDITIONAL OBLIGATIONS.

TITLE II. - ALTERNATIVE OBLIGATIONS.

TITLE III. - JOINT AND GEVERAL BIBTORS AND CREDITORS.

TITLE IV. - INDIVISIBLE OBLICATIONS.

TITLE V. - MARNESE MONEY.

TITLE VI. - PENAL CLAUSE.

BOOK III. - TRANSPER OF OBLIGATIONS.

TITLE I. - (BY INHERITANCE. TRANSFES)

TITLE II. - (INTER VIVOS. TRAFSFER)

Chapter I. - Assignment.

Chapter II. - Subregation.

Chapter III. - Delegation.

BOOK IV. - EFFECTS OF OBLIGATIONS.

TITLE I. - POWERS OF CREDITORS.

Chapter I. - more land. Rower of enforcing obligations.

Part . I. Dofault.

Part II. Canos in which specific performance enforceable.

Part III. Tender and Deposit.

Chapter II. - Him Right of lien

Chapter III. - Damages.

TITLE II. - POWERS OF THIRD PERSONS.

Chapter I. - Exercise by creditors of debtor's rights:

Chapter II. - Avoidance of contracts made in fraud of .

oreditor's rights.

BOOK V. - DETERMINATION OF OBLIGATIONS.

TITLE I. - PERFORMANCE.

Chapter I. - Who may perform.

Chapter II. - Who may obtain performance.

Chapter III. - What may performance consist of.

Chartor . IV. - Appropriation.

TITLE . II. - IMPOSSIBILITY OF PERFORMANCE.

TITLE III. - RELEASE.

TITLE IV. - HOVATION.

BITLE V. - SET OFF.

TITLE VI. - PROER.

TITLE VII. - PRESCRIPTION.

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BOOK I. - HOW CHLIGATIONS ARISE .-

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Minors, Lunatics, Juridical persons.

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Mistake, Praud, Duross,

Weakness of mind.

III. Raspeasion

Part III. Object.

Defined,
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or property.

Chapter II. - Effects of Contracts.

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Part II. Effects as to third persons.

I. Effect of clause involving prestation by a third person.

II. Effect of clause made for the benefit of a third person.

Chapter III. - Determination of Contracts.

Part I. Determination by Court.

I. In case of invalid or defective Contract.

II. In case of non-perfomance.

Part II. Determination by mutual consent.

Part III. Determination by condition subsequent

TITLE II. - UNDUE ENRICHMENT.

Thepado . - Ceneral.

Chapter Air. - Of certain specific unque enrichments.

Part I. Undue prestation.

Dot II. Ausiness management.

I Duties of sanager.

II. Duties of principal.

TITLE III. - WRONGFUL ACTS.

Chapter I. - What may be considered an injury.

*Chapter II. - Persons responsible.

Chapter III. - Assessment of damages.

11. - MODIFICATIONS TO OBLIGATIONS.

TITLE I. - COMDITIONAL OBLIGATIONS.

TITLE . II. - ALTERNATIVE OBLIGATIONS.

TITLE III. - JOINT AND SEVERAL DEBTORS AND CREDITORS.

TITLE IV. - INDIVISIBLE OBLIGATIONS.

TITLE V. - EARNEST MONEY.

PITTE VI. - PENAL CLAUSE.

III - TRANSFER OF OBLIGATIONS .

TITLE I. - TRANSFER BY INHERITANCE.

TITLE II. - TRANSFER INTER VIVOS.

Chapter I. - Assignment.

Chapter II. + Subrogation.

Chapter III. - Delegation.

. - EFFECTS OF OBLIGATIONS.

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TITLE I. - POWERS OF CREDITORS.

Chapter I. - Power of enforcing obligations.

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Part II. Cases in which specific performance enforceable.

Part III. Tender and Deposit.

Chapter HT. - Right of Lien.
Chapter HT. - Danages & fame compe, commer many

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TITLE II. - POWERS OF THIRD PERSONS,

actions

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Chapter II. - Of Contract made in fraud of oreditor's rights.

DETERMINATION OF CHLICATIONS.

TITLE I. - PERFORMANCE.

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Chapter II. - Who may obtain performance.

Chapter III. - What may performance consist of.

Chapter IV. - Appropriation.

TITLE II. - - IMPOSSIBILITY OF PERFORMANCE.

TITLE III. - RELEASE.

TITLE IV. - NOVATION.

TITLE V. - SET OFF.

TITLE VI. - MERGER.

TITLE VII. - PRESCRIPTION.

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115 Free Lane Stoke heromglon Lordon N 10t howen ber AM Dear Monsieur G. Padony I have proceed your letter of the 7th instant for which I thank you very much In compliance with you request I have sent-you by post Chalmer's Bills of Exchange ste Which, in my opinion is one of the biol authority on negotiable instruments. He book is the balest Edelin and Contains the full test of the outs of Parliamen

115 Freen Lane Stoke heronglon London N iat hovember 1908 Dear Monsieur G. Padony I have precent your letter of the 7th instant for which I thank you very much In Compliance with you request I have sent-you by post Chalmer's Bills of Eschange We which, in my opinion, is one of the biol authority on negotiable instruments. The book so the lafest Edition and Contains the full test of the out of Parliament

the subject together with the author's commentaries. I think it is the very Sort of book you require after having made Cartful inquiries on the work. I have also inclosed you the moorce of the same as requested I am glad tobe able to the examination on Bel Property and Conveyancey whichis the fourth subject, and Jan Inal Examination . Shope tobe able to try for it west year i.e. 12 months lenge I am yours very truly chita

115 Green Lanes Stoke Kewington 16th hovember 1908 Dear monsieur G. Padoux, Jour letter of the 12th instant and in puronance of your request I have Sent you by post When Law Lexison the invoice of which is herwith inclosed. I wish also to thank you for your Kind Congratulation I am now working for the Bar Final, I am yours very Chita

115 Green Lanes Stoke Kenington . Dear Monoieur G. Padoux, Jour letter of the 12th instant, and in puronance of your request of have Sent your by post whenter Law Lexicon, the invoice of which is herwith enclosed. I wish also to thank You for your Kind Congratulation I am now working for the Bar Imal, I am jours very to Chita

Jan Fris de la serie de la ser

. CONSULAT DE FHANCE

Brine 19 hovembre

Mon then Could Junital,

M. Pitar. Kossier, negotian,
libraire & consent du Japon à Brime,
am Wall 108, n'a pai astuellement
à con entrepôt "The livil looks of
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Einholm". Il le reserva dans 6
Semaines eniveron, & one prévioustra
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M. Nobele M'a remis la liste li jainte, qui aira pent ita quelque niterit prom vous. En onorages marquis d'une orise rouge cont an magazin chez lui; quant aux autre, per exemple, l'idition française du Code de lonnurse de l'Empire du Japan."

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précialement au Japon. [lesi ne
applique pas, bien entendu, au
locke livil. en langue Anglaine,
qui Rines que pe l'ai dit plus
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de l'année.

Dis que j'aurai été amée de
bons en avertie, pe m'empreisorai de
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lu attendant d'agreir, mon
lher lonent finéral, les assurant
de mes sentiis ents bries distingée

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Mr. Padoux, Legislative Edvisor,

to

His Highness Prince Charcon, H. S. H. Envoy Extraor-

Your Highness,

the third member of the Code Occasioning has begun to take part in the work of Codification on the 16th inst. His salary shall therefore be due from same date.

I have the honour to Femain,
Your Highness' most faithful

Frime 21 hor 1908 Mon thu Consul général. M. Max hister m'envie ce matin une carte pastale pour m'informer qu'il serait disposé à nous céder son propre exemplaire de "The Civil Code of Japon, M10. Il fait toutefoir remarque que est exemplaire est un peu endominage, mais parfaitement whilisab · Venillez me dire si je dais vous le faire envoyer Votre bien sincerement divous

Caris 238 november 1909.

Ligation Royale Siam 10. 994

They to acknowledge the receipt of your letter of is! met informing me that in Buriere the third manufer of the Liae Commission, has begun to take work in the work of this Commission on the 16 th west.

J' remain , Sir , Yours faithfully Chaser for Siam.

Go m: g: Padom Legislative adviser to His majesty's Government CONSULAT DE FRANCE

Brime 24 kor

mon du Consul gineral,

M. Max Nousen vous

a drew par le même courrier

l Commercial Code of Japan

l Civil Code of Japan

to ment ci ioint

La Lacture aesuitter.

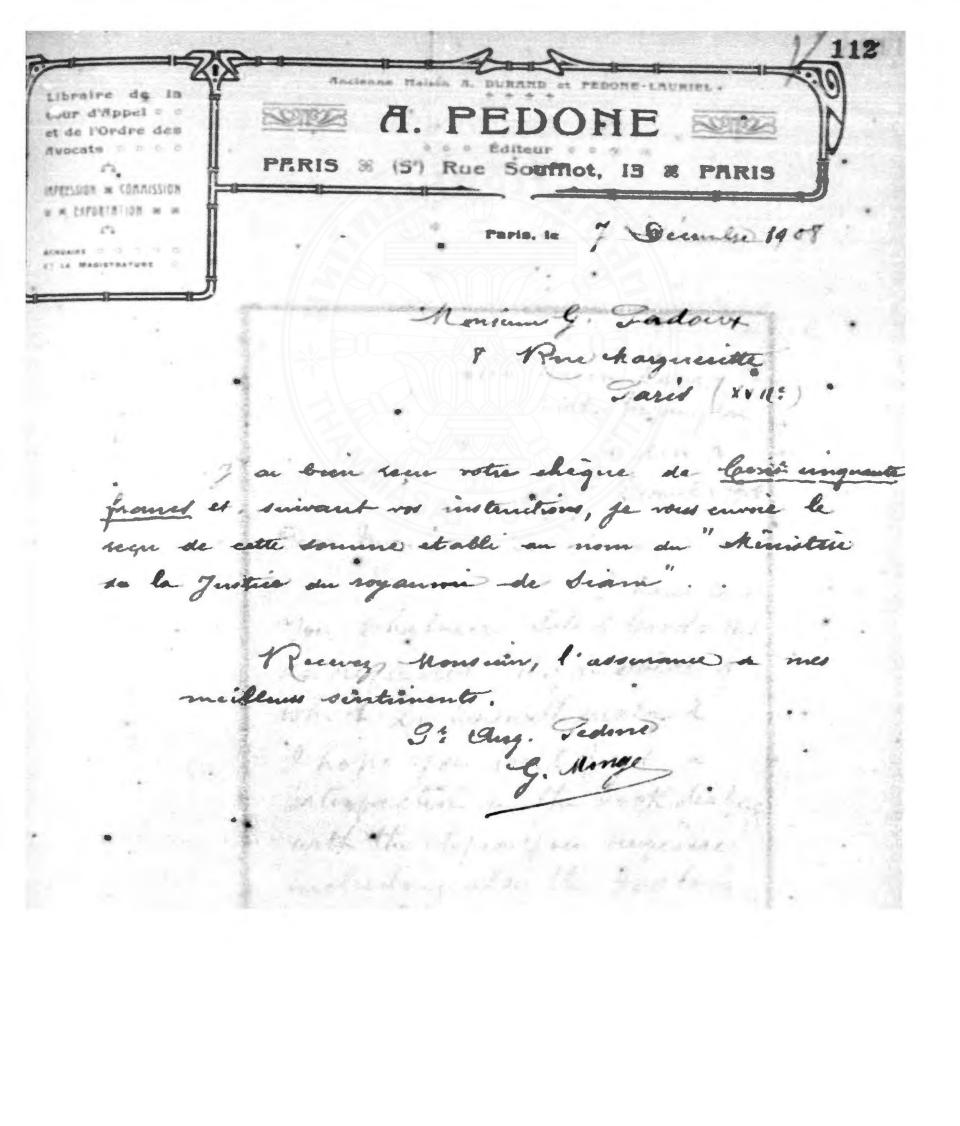
la facture acquitter.
Vaiillez m'en faire perverien
le montant (M 20,20) par

mandat pastal.

bres heureus d'avoir per bous this apprable en este Ciconstance, je vous renouvelle. Mon Olive formal général l'éman de mes sentiments bien distingués & Alvanés Agent Seuf

115 Green Lanes Stoke heavy to 26 the hor. 1908 Dear monsieur G. Rodong. Jon letter of the 21th instant enclosing a money order of £ 2.9.3. for which I thank you very much. . I am Dear morning Par Zours truly Chita

115 Green Lanes Stolle hewonglin London N. 6th December 1908 Dear Monsieur G. Padong I am very pleased tohave received your letter ofthe 3rd instant. There are troo books on the fale of Good het 1893, which may be put to Your xleetion :-1) Chalmer's Sale of Goods act 1893, welleding the Factors Acto 1889 and 1890



115 Treen Lanes Stoke he wing ton London N 12 th December 1908 Dear monsieur G. Padoux you Chalmero Sale of Goods Act as requested, the movice of which is herewill enclosed. I hope you will find a Satisfaction in the book, dealing with the topic you require, including also the factors acts which is an indispensable part of the highest Law of Sile

nostrelaborate and referred comments, but I am sure to will serve your wants.

I am now look thing for the I snal Bar Examinate which I hope and try to get through next betoker. I shall have one year and were months free, that is to say, with no more examinate there is "ample time for my I mad Bar Examination to start is working from now

So in my par coming of devote myself in Shidying the French Largerge - to. Commence ejan the fant. Knowledge of the language of have learned been little years ago - the Assumption College Baykok.

the ina of Court have chosed for their Christman to her year fracation & well not begin you until some time about the meddle of January next.

Mest april when my Easter holiday come. I shall go over

Where I hope to gain a little showold fe in the French danguage which I always have a faway in my mind Dear moreum Padonye Yours very truly

CONSULAT DE FRANCE

40 Cari, 6 86 Birmen

CAIRE

Mon cher Count Jonice.

J'm' beautoup Facts' i hur chrone

Go Crocline you vous in Demandry.

C'al que j'ou athur is possoin avoir le,

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oprintemp Dernier jet que a'avaient

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espoque. Je puis cette fir mus la admir,

le librarie verant à les revoir.

Vous en c'to some redevable s'aux.

Jonne de 20 presties, voir 18 fans,

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comin, mon che Counte.

santimento de vivini.

MENOFAN DUR.

-:-:-:-:-:-:-:-:-

Mr. Guyon, Member to the Tode Jenziesion

10

His Excollency Phys Chakrapani. Under Secretary of State to the Ministry of Justice.

I beg to inform Your Excellency that, within the month of Tecember 1808. the following work has been done by the Legislative Advisor's Office.

A draft for an Act concerning dangerous, unwinblesome or troublesome works has been drawn up on the reguest of Mr. Westengard, General Advisor.

I am notually drafting the proposed Gode of Penal Procedure.

Wr. Levesque perused the Dibes judgments regarding inheritance of the year 191.

Bud. January 1909.

Guyon



POST CARD.

This space may be used for correspondence (Post office Regulation).

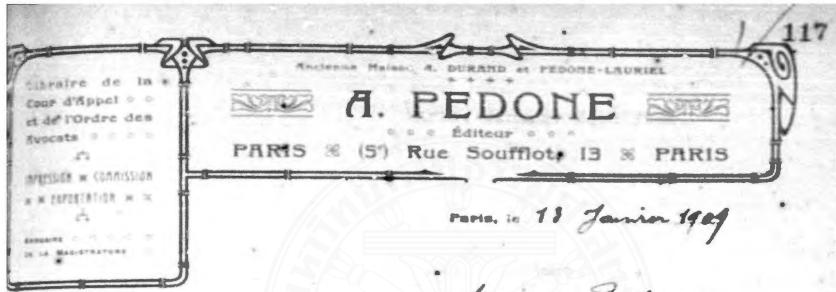
Dear Armaine Patony 140

many thanks for your letter and the fortal order of the 2 minst received this afternoon fill all food work forth her year yours very truth Chilo

The address to be written here.



Monsieur G. Padouze S. Rue Marquerette Paris XVIII



Rue Margineitte Taris (XV. 4!)

J'ai l'honneur de mes semette sous ce ple; un seçu de 29,55 en échange du cheque de maine donnée que mus any sien voule en energer en passurant de ma facture -in- 11 Janvier comant-, établir au nous du himitière de la Justice du soyamme de train "

Recens, Menerum, l'expression de mes sentements

gr. Aug. Fedora

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Bod. A. WITTERSTAN

PLOUDIG TO MENTA SOCFIOIS.

The German Gode has a very fine theory about what they call "Acts-in-the-Law" or "Juristic Acts" and about "Unilateral expression of intention" de

and the second of the send Riving a name of the second states

Paris, January 28th 1909.

Your Royal Highness.

I beg to enclose a copy of the general distribution of the draft Civil Code on which I have finally agreed with my assistants. It is of course subject to Your Royal Highness approval and to such subsequent modifications as may be found to be advisable during the progress of the work itself.

Our draft differs from both the French and the German classification.

rightly considered as obsolete and illogical. Real rights, for instance, are divided into two parts, one of which (owngrahip) is in the middle of the Gode, the other one (possession) being at the end. Successions are mixed up with obligations. Division of property between husband and wife is apart from marriage. Gift is not included in the Contracts, etc.

the German classification is more scientific, but it is too technical, and sometimes very intricate. The ordinary Siamese judge would certainly not understand some of its distinctions. We are perusing the Jerman Code at every meeting, and even technical men like Meers. Concharville and Rivière are getting into trouble at many sections.

The German Gode has a very fine theory about what they call "Acte-in-the-Law" or "Juristic Acts" and about "Unilateral expression of intention" as

likely to create Obligatory relations. It seems hardly possible that such provisions be translated into Simmese, judging from the difficulties which were met in translating the very simple wording of the Penal Code. Japan has adopted in her Gode the German theory. but the Japanese Gode was enacted only a few years ago, and the German juridical system had been previously taught for many years in the Tokyo University by German Professors and also by Japanese Lawyers who had carefully studied the German legislation. Besides, even the German system has its drawbaks: for instance. in the Japanese Code, which is framed after the German Code, the provisions about contracts are to be found in Book III, Obligations, Chapter 2. But Capacity of parties to a contract is governed by Book I. Chapter I. Rules about intention of the parties are in Chapter 4. Joint Obligations are in Book III, and conditional obligations are in Book I, and so on. We therefore propose to embody the whole theory of "Acts-in-the-Law" in the part concerning Obligations, where Juristic Acts are simply considered as logal relations between two or more parties.

The actual position of the work is as follows:

we have entirely left aside the several parts

which are to be prepared in Bangkok, either because

hney are not connected with general theories of law,

or because they are connected with local laws and

customs. These parts include:

Book I concerning natural and juristic persons.

Book II, Divisions I, III & IV, vis. Object

of real rights, Ownership and Servitudes.

Book IV, dealing with inheritance.

Book V. provisions of private international

The remainder includes the Obligations (with the exception only of some specific contracts) and the general theory of possession. Those are the parts for the preparation of which we have constantly to refer to modern theories and modern books.

The Divisions I, II & III of Book III are ready.

The Titles I, 2, 3 & 4 of Division V are also entirely drawn up.

We have still to examine Division IV of Book III, that is to say Determination of Obligations, also several specific contracts (Deposit, Arency, Suretyship, Negociable instruments, Assaciations), and the theory of possession. I tried to include in my rogramme the part concerning private international law, but I do not think we shall have sufficient time to examine it. The beginning of our work was delayed at a certain extent by the appointment of M. Rivière, who services I could not scoure before the 15th of November. On the other hand, the work which we are doing now involves a general survey of the whole of the Civil Law. Such a general survey is indispensable, and I feel now that I would not have assumed the responsability of carrying out the compilation of a comprehensive system of Law if I had not been allowed time for the technical training which I am now undergoing.

work will be finished in another two months. I expect therefore to leave Marseilles either through the last mail of March, or through the first mail of aprif, that is to say either on the 28th march or on the IIth april. I am sorry I cannot be earlier in Bangkok, but Your Royal Highness knows that when I originally submitted proposals to the Ministry of Justice for the comple-

I said that I sould not possibly fix beforehand how long I would be obliged to stay in Paris. Your Highness may be certain that I did not weste time, and that the present preparation is an essential element for the future success of the work.

I have the honour to remain,
Your Royal Righness most faithful

LIVE PRELIMINAIRE : DISPOSITIONS OFFERALES.

LOI - Caractère obligatoire

Liberté des conventions, sauf celles contraires à

Principe de non rétroactivité

Promulgation

DEVOIRS DU JUGE .-

Obligation de juger

Si la loi est muette se baser sur la couture, les analogies, la jurisprudence, l'équité.

Labonne foi doit présider à l'exercice des droits et à l'exécution des obligations.

Elle est présumée, sauf en cas d'incompatibilité avec l'attention que comportaient les circonstances.

Sauf le cas de légitime défense on ne peut se faire justice à soi-même.

LIVRE I. - PERSONNES.

TITRE I. - PERSONNES PHYSIQUES.

Chapitre I. - Etat des personnes en elles-mêmes.

.Partio I. - Nationalité.

Partie II.- Capacité pour l'exercice des droits civils.

Majorité.

Emancipation.

Interdiction.

Dowicile.

Disparition.

Chapitre II. - Etat des personnes dans la famille.

Partie I. - Mariage.

Fiangailles.

Capacité pour contracter mariage.

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Interdigtion.

Domicile.

Disparition.

Chapitre II. - Etat des personnes dans la famille.

Partie I. - Mariage.

Piangailles.

Capacité pour contracter mariage.

Formalités

Mullités

Effeta.

Rapports des époux: Capacité de la forme.*

Enfants : Autorité paternelle. Biens des enfants. Adoption.

Dette alimentaire

Partie II. - Divorce.

Partie III. - Tutelle.

TITRE II. - PERSONNES JURIDIQUES.

Charitre I. - Personnes do droit public.

Chapitre II. - Associations - Sociétés.

Chapitre III. - Pondations

MYRE II. - DROITS REELS.

TITRE I. - LEUR OBJET. - Distinction des biens (moubles ismeubles, propriété littéraire et industrielle).

TITRE II. - POSSESSION.

TITRE III. - PROPRIETE

Chapitre I. - Domaine public.

Chapitre II. - Propriété privée.

Partie I. - Modes d'acquisition

I). - Cocupasion (animaux compris).

II). - Prescription.

III)). - Accession.

IV). - Convention (genvoi).

v). - Succession (renvoi).

VI). - Tradition.

VII). - Invention.

VIII). - Spécification.

Partie II. - Etendue.

I). - Pruits

II). - Accessoires.

III). - Copropriété.

It). - Limitations résultant du voicinage.

Partie III. - Restrictions dans l'intérêt public."

I). - Expropriation pour cause d'utilité publique.

II). - Mines.

III). - Porêts.

TITRE " IV. - SERVITUDES.

Chapitre I. - Servitudes légales (passage, écoulement des eaux....).

Chapitre II. - Servitudes conventionnelles (entre autres: usufruit, habitation, superficie).

HIVRE III. - OBLIGATIONS.

LIVRE IV. - SUCCESSIONS ET TESTAMENTS.

LIVRE V. - DISPOSITIONS DE DROIT INTERNATIONAL PRIVE.

TITRE I. - CONDITION DES ETRANGERS.

Chapitre I. . - Personnes physiques.

Chapitre II. - Personnes juridiques.

TITRE II. - CONFLITS DE LOIS.

Chapitre I. - Principe de lé personnalité des lois (limite: lois d'ordre public).

Chapitre II. - Conflits relatifs aux personnes (état et capacité)

Chapitre III. - Conflits relatifs au patrimoine (meubles et immeubles).

TITRE III. - PORME DES ACTES (locus regit actum).

TITRE IV. - EFFETS DES JUGEMENTS (necessité de l'exequatur)

MENORANDEN -14-1-1-1-1-1-1-1-

Mr. Mayon, Member to the Code Commission

05

W. R. H. Prince Rajburi Miretrit, Winister of Justice.

I beg to inform Your Poyel Highness that, within the month of Junuary 1909, the following work has been done regarding Gedinitestion.

I went on porusing the Sizese less & regulations relating to Oriminal Procedure & I began to inquire into the matter-of-fact speration of much rules by attending the sittings of the Borispah beart turing a fourthmight; lastly, with Mr. Lawson's assistance.
I looked intofthe police system of Bangkok.

with regard to inheritance given by the Dike Court from Ivi to Inv a relating to inheritance given by the Dike Court from Ivi to Inv a put his report on the Siamose inheritance lat in its definitive few. Later on he started the work regarding law on husband a wife by translating the Laterna Phus Rea.

Hot January 1909.

MEMORARDUM.

Mr. Guyon, member to the Code Commission to

His Royal Highness Prince Radjburi Direkrit,
Minister of Justice.

I beg to inform Your Boyal Highness that, within the month of February 1909, the following work has been done regarding codification.

Proceeding with the draft of the proposed Code of Original Procedure, I attended, within the former forthnight of the last month, to the sitting of the Criminal Ocurt, and within the latter forthnight I made an inquiry into the proceedings of the Poreign Causes Court and the Bangkok Appeal Court with the kind assistance of the judges to these Courts. Also I visisted the Bangkok jails.

At last I beg to inform Your Royal Highness that, according to the wishes, I mean to go this month to Chantaboon to take an account of the working of the Provincial Courts.

With regard to Mr. B'Evesque, he went on with his work relating to the family Sismese law by perusing the Laksana Tat, Laksana Lakpa, and the provisions dealing with such matter of Laksana Bet Set, Laksana Koo Me, Laksana Rap Fong, Laksana Moradok &ca. He begam also to study jurisprudence by looking over Dika's judgments of the years 120, 181 & 122.

(Signed) Guyon.

Ligation Regule

14 Avenue d'Eylau,

Que. 10.3.08.

No.1351

Paris.

9th March 1909

Dear Mr Radoux,

I was sorry I missed you this morning. I did not know you wanted to see me. Iwas in at 12 o'clock, but thought you only came to see M.a'Orelli, who gave me afterwards your account for effice expenses. I beg to enclose a cheque on the Credit Lyonnais for the amo nt, namely From 793.10.

M.d'Orelli also told me that you wanted to see me on another point, namely about the new Legal Advisers to be engaged for the Ministry of Justice. If you was in doubt I should think the best thing is to ask the Minister. If however you have no time to do this. Itwould use be best to use one's owh discretion & do for the best.

Your' sai noerely

Charon

Paris, March 27th. 1909.

Your Royal Highress,

The Codification Commission is presently completing the work which I described in my last letter. The general provisions concerning Obligations, including about 400 sections, are finished. About 500 sections dealing with the principal specific contracts are also compiled. The Commission has practically done the work which I expedted to be done during our stay in Paris. I am therefore leaving marseilles on the 11th. of April, and I expect to be back in Bangkok on the 11th. of May.

at work up to the beginning of next month. They cannot therefore leave at the same time with me. I must allow them some days for making their preparations. Ar. Moncharville expects to leave on the 27th. of may. He is going by the Transgiberian Failway, because he is not a good sailor and formerly had very bad experiences in the Indian Ocean. This is the time of the South West monsoon, and it is beter that he should not be too tired when arriving in Bangkok. He will be there on the 4th. or 5th. of July. June

on the 15th. of April. He shall stay there for one month and leave Paris on the 17th. of May. He is also going through Siboria, for the same reasons than Mr. Moneharvile. He shall arrive at the end of Juno.

I have been very much satisfied with the work

done in Paris by these two assistants. Although I have now fully realized the magnitude and the difficulty of the work involved in a général codification, I feel certain that provided nothing interferes, the Codes will be finished within the period of time originally contemplated, that is to say no more than four years from the present moment, and siam will bedefinitely released from the fetters of exterritoriality.

I have the honour to remain,
Your Royal Highness most faithful

1/128.1

MEMORANDUM.

Charles L'Evesque, Secretary to the Code Commission to

H. E. Phys Chakrapany, Under Secretary to the Ministry of Justice.

Mr. Guyon being away, I beg to inform Your Excellency that within the month of March 1909 the following work has been done regarding Codification.

Mr. Guyon is going on with the draft of Griminal Procedure Code.

Mr. L'Evesque has ended his inquiry concerning the Persons' law into the Siamese texts and begun to work the Dika's judgments dealing with the same matter.

(Signed) Ch. L'Evesque.

1St. April 1909.

EXPENSES MADE FOR THE MINISTRY OF JUSTICE OF SIAM.

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DE LA JUSTICE.

IMPRIMERIE NATIONALE

LA COMPTABILITÉ ET DE COSTRÔLE. rous y avril 1909

MONNIER.

J'ai l'honneur de vous advesser ci-joint le némoire des impressions qui vous ont été fodrnies par l'Imprimerie Nationale pendent le mois d'é 1907.

Je vous prie de vouloir bien faire verser cette somme, le plus tôt possible, à la Caisse de l'Imprimerie Nationale (de 10 heures à 3 heures), soit en numéraire, soit en un mandat de poste à l'ordre de M. l'Agent comptable.

Agriez , Monsieur, l'assurance de ma considération très diffinguée.

he Chef du Service de la Comptabilité et tiu Contrôle,

James

Monsieur Georges Cad

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MARCH COPIER

CHARLE MARCHES TO THE TOTAL
MUSINES

PURE BERLIN

30, Rue Paradis, MARSEILLE

Marseille le 10 Avril 1909

Monsieur Padoue Môtel Terminus Marseille

Moneieur,

Hous vous envoyons comme promis à l'Hôtel Terminus chambre 48, les fournitures que vous avez bien voulu nous commander.

Hous sommes en votre entière disposition si vous avez besoin d'autres fournitures, auquel croyes Monsieur nous apporterons tous nos meilleurs soins pour vous satisfaire.

Hous serions bime intéressés de savoir si les filmos supporteront la chaleur ? vu que nous avons nombre de clients qui sont indécis à nous acheter nos appareils pour ce cas là .

. Aves nos plus sincères remerciements ,

Veuilles agréer, Monsieur nos bien empressées salutations.

Le Directeur

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Dear Zring

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The account for the lend

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The parage money for his. Duplate

Beings france 2000 I sta to send were the

Balance, in For. 1096. 50 for which you shall.

Ind cheque enclosed

and other papers.

· Believe me

G. P

% 4. H. bring Charm

in Paris

Legation Royale Siam

No.66

2374 April 1909

Dear Monsieur Padoux.

I have just received your letter of the 10th instant enclosing cheque for Fre1006.50 & accounts with receipts of expenditure for Office work & printing the Penal code amounting to Fresco. 50 for which I thank you.

I have dedited a credited the Ministry of Justice's account with the above sums & will send the accounts in when I get back to Paris. I will not fail to send M. Duplatre his journey money when the time comes. I have also receied a bill from Biget & Bouy but it is not receipted. The P.O.'s receipt for the amount will do.I will however attaich their bill to this receipt .

His Majesty's letter to the President about the Copy of the Penal Code has arived by last week's mail. I will make the presentation when I get back to Paris.

I hope you had a pleasant journey to Bangkok & with kind regards to Madame

Believe me,

Your's sincerely

MARSEILLE

LA CODIFICATION AU SIAM

La poussée du Japon vers la civilisation occidentale, la rapide transforma-tion du peuple insulaire, dout les officiers, lors de l'expédition Waldersée en Chine se mettaient en gants blancs pour aller à la trost, les petits Nippons noiraux, à l'œil vif, qui ont battu la vieille Europe dans la Russie, portent des ré-sultais dans l'Extrême-Orient. C'est à eux qu'il parait, en effet, logique d'altribuer les résultats de la grande réfor-

me qui occupe le Siam.

Le Siam, le souverain du pays 8. M. Chulalongkorn et son frère le prince Dam-Rong, et sont rendus compte de l'énorme influence occidentale et ont pensé justement que, pour marquer avec les peuples blancs, être représenté avec avantage dans leurs conférences internationales y émettre des avis autorisés et prendre place dans le concert des nations, il fallait adopter au moins les grands principes généraux qui règle-mentent les sociétés organisées. C'est ainsi que la Réforme en France, puis, l'émancipation des colonies anglaises l'Amérique et la Révolution française de 1789, qu'on a toujours reliées ensem-ble manifestent jusqu'en Allé leur rayonnement. Car si l'Europe vit l'Amérique, à des degrés divers, suivre ce grand mouvement d'idées, on n'en voyait guère la répercussion en Asie.

Le Japon pourtant donna le branle. Il fit justement apprécier ce que peut un peuple de bonne volonté qui ne subit pas de domination et ce que produit un pays similaire comme l'Indo-Chine qui, malgré aide et encouragement, se cabre sous les conseils du conquérant et mani-

feste une si lente évolution.

Le Siam a terru à secouer les vieilles mœure. Espérons que l'effort demeurera duvable. On peut attribuer peut-être les mouvements d'émancipation que l'on constate chez de nombreux peuples à la facilité des communications ectuelles qui leur ont permis de se rendre comple de la rie que menaient leurs voisins et les ont souvent incités à les imiter. Dans le grand carrefour qu'est Paris, dans les autres capitales ou grandes villes, que d'étrangers auxquels on a entendu dire : « Ah ! ne plus retourner eu pays ou y transporter tout ce qui fait actuellement notre activité. »

Depuis la création de son ministère de la justice, en 1892, le Siam a entrepris la réforme de sa législation. On peut dire que deex mobiles ont dirigé cette mesure. Le Sum a voulu mettre en harmonie ses organes et ses pouvoirs judiciaires avec les progrès économiques réalisés et trouver des points de contact avec les par les négociants et les voyageurs. Ce térieure des codes et services judicialres, n'est donc pas seulement une réfonte inmais encore la suppression des privilèges et des juridictions spéciales dont jouissent les Européens et le Japon luimême qui ont guidé le Siam.

La modification de la législation étail

exigée intérieurement par les nouvelles méthodes d'organisation et d'administration du pays. On suit. en effet, que, grace à une installation solide de son resime financier, le Siam peut créer et entreprendre. Son crédit lui permet des emprunts. Les chemins de fer peu à peu muntiplièrent le réseau de leurs voies. On a profite de l'expérience européenne et s'on peut dire que nos compagnies ne connaissent ni l'économie, ni la prudence, ni, relativement, les bénéfices produits par la locomotion à vapeur Sinmoise. L'irrigation du Siam a transformé des lerres, jusque là incultes et abandonnées, en rizières fertiles. La police, sérieusement établies, aumre le sécurité aux habitants et au commerce. L'armés, calquée sur les systèmes européens, compte comme un moyen important de désense ; une flotte en voie de création l'appuiera de la force de ses canons. Mais, afin de réaliser son second but,

péennes génantes pour l'administration locale, vexantes en ce qu'elles avaient l'air de tenir le pays pour barbare, le Siam a dû se conformer, dans sa codification, à une imitation des législations occidentales. En cela, il a demande à M. Padoux, consul général de France el conssiller législatif au Siam depuis 1905, de présider la commission de réforme. M. Padour avait eu, comme précesseur, un jurisconsulte éminent, M. Schlesser, de nationalité belge, qui avent fait œuvre surfout dé science juridique, mais cherchant moins que M. Padoux à accorder les textes anciens avec les praliques nouvelles. Le consul de France & tenut en effet, à vuignriser la compré-hension des lois. Dens le Code pénal du Siam, terminé et publié, M. Padoux s'est attaché à relier étroitement le droit siamois et le droit suropéen. Pour cela, il a pensé qu'il fallait faire rédiger la warned par dos jupos tedigimes, ecosido mean part indicators, his retiries. On how presents see boutton, ut more terdestal. La besegne s'est divisois qua cotta jugitapositicos der livia de Parcos et da stributions differented Main it revient e M. Pudoux un grand marile de su leswell. If his pay prin his codes considenfour of the discrett, the differences, which So: applyquer au Nises; if a choise overthe base le droit siamone. Il n'e pas fait. Se ascrifere due resultantes large nomerinais. era des ringles obeine depuis des procles qu'on se saurait extreper sans l'esqu'-B a condemné ecoloment des pretiques rejeténe par l'etpérience, réduit dans la mesure de possible les projuges el, cheque fois qu'il l'agaz, il a postaure les princiges des législations d'Europe at il Astricters; les jeunes clauses marnoises nu s'apercerront pas de la transformation e' riclamerent paut-itre plus lard, si l'effort se perpette, une refoute du code en la fazant de troy ancien. C'est un élegu. Une couvre de ce peure doit être avant tout applicable et ac garder de ... gudaces. Ries n'est plus désastreux et

ne fait plus préjugar du céracière d'une doctrine ou d'une réforme que l'impossibilité de se servir d'une loi qui en cocsacre une partie. C'est la raine d'un systêrme.

Ajoutous, à l'isonneur de M. Padoux et de la France, que le comité de législation étrangère a jugé le Code pénal du Siam digne d'entrer dans la collection des principaux Codes étrangers. Le gouversement du Siam a d'ailleurs, marqué sa reconnaissance envers notre national en lui continuant sa confiance et en le chargeaut de présider encore la commission instituée pour mener à bonne fin le renouveau de la législation et rédiger un Code commercial, un Code civil, un Code d'instruction criminelle et une la de réorganisation judiciaire.

Il faut croire que la tondance déjurninée du Siam et la présence d'un Prançais influent auprès du gouvernement, tendront à créer des rapports d'amitié durable entre ce pays et la France. Nous oublions déjà nos anciens griets comme ils oublient le bombardement de Bangkok. La présence d'une nation indépen-dante et forte en Extrênse-Orient rervira aussi, croyons-nous, à établir un

équilibre désirable.

Lion MAGON

16 May 1909. .

Dear M. Padoux,

You told me the other day that the arrangement of the subject of the Civil Gode has been somewhat fatored simpe you sent me the table f of the probable contents from Paris. I should like to have the latest modification with me, because it is quite probable that I may be lecturing on the Civil law in August, and I should like to arrange the subject as near to what will be our civil law in five or six years time as possible. I have begun to think about the subject of my lectures.

The King will be leaving Bangkok on the Slat, instant. I have made arrangement for you to be presented at the Royal landing place on that day. You will have to be there at 6. 80 A.M. It is rather early, but otherwise there is no better oportunity for some time. Yours truly.

20th. May 1909.

From M. G.Padoux, Legislative Adviser to H.R.H. Prince Rajburi Direckrit, Minister of Justice.

I beg to enclose a copy of the summary of the draft concerning the general rules of obligations. By compairing it with the previous summary. Your Royal Highness may see how far the proposed distribution of that part was altered.

There is one point on which we have not yet reached an agreement. Prescription was originally included in division V concerning Extinction of obligations. But prescription includes the acqisition of property by continued possession as well as the extinction of obligations by lapse of time. All Modern Codes are dealing with "acqisitive presciption" and "extinctive presciption". Acquisitive prescription is part of the law of property. Extinctive prescription, viz., limitation of actions, refers not only to actions connected with obliga tions but also to actions connected with family. property, inheritance. We propose therefore to make the whole matter of prescription the subject of a separate title. But as to where this title to be placed we cannot yet make any definite proposal.

> I have the honour to remain faithful Your Royal Highness most faithf

Bengkok, 28 May 1906.

Doar M. Padoux.

I thank you very much for the early copy of the law on obligations. I must congratulate you on the lucidity of the sy style of drafting. I see no difficulty in translating it. Had the style been that of the German Code, I mean the grammatical construction of it, it would have been most difficult. A load of anxiety has been taken off my mind.

Do you think it is sufficiently matured to be put into the hands of translators. Even if we have a great deal of alterations hereafter, it would not be a bed thing for the translators to train themselves up in the translation of it, to get their hand in.

Yours truly,

Tune 3 1 1909

The ministry of Eintice enedited me with a son tas for Engenises for the Code Commission in Janes .

2500 Fes for the printing of the French Version of the Lenal code

The expenses for the Code Commission amounted to 2326 for to continues leaving an approximate balance of 730 Tes.

the expenses for the Evench version of the Code including binding freight ot amounted to 1880 fes 60 cents leaving a balance of 619 fes 200 centure, or Tes . 331.

the price of the French Versiss works exactly at 3 salungs per copy.

Bangua

ASIA AND EUROPE

London June 28th.—The Time, in a leading article commenting on an article three half columns long from a special correspondent in India, emphasize his attements that the real cause of surest in India is not Indian, but Asiatic. Indian solution is a symptom of which is finding stronger expression every year throughout the East.

SIAM AND JAPAN.

SOMETHING TO STRIVE FOR.

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que se me secrant. Ve ué un en sanie aullement: an constroine o' on motoris d' madonna wie Cherry plus recoursing de a mi formi er too to de mor priku it totalwon covereur broghes bien worderto 6 eld time e' as drewen econis - que deles m. et an "étales as a formis u' pu Fris de muse fourilineire mei une brounde ulas de du devit gra. tion on love in join tomify. The super. in entry finisher worp plan Afficies at cranple

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July 1909.

WEMORANDUM -

T . .-

The fourth member of the code commission, Mr.
Rivière, having arrived in Bergkot, I have at once convened the Commission in order to examine how the work of Codification could be now carried on.

I understand that the Siamese Government the postidifficulty and the siamese Government to postidifficulty and to have the whole of the Codification completed as soon as possible, and that they would also like to publish separately and within the shortest period consistent with the nature of the work such parts of the Codification as shall govern the majority of cases in which foreigners are concerned.

period between the ratification of the Treaties and the completion of the Codification should not last too rany years. It is desirable because on the completion of the Codification the full jurisdiction over the foreigners concerned in such treaties will be transferred to the ordinary Siamese Courts. It is desirable also because during such transitory period there will be some uncertainty as to the proper law to be applied in a number of foreign cases, and in the absence of any definite Siamese law or practice a case-law mostly based on foreign precedents may be created, which might eventually conflict with

the principles adopted in the future codes and interfere to a certain extent with the publication of these codes.

With regard to the completion of the codification, I cannot say anything more than what I stated in my previous reports. Judging from that part of . the work which has already been done, I confidently expect that the whole work entrusted to the Commission shall be finished in four years, say during the currency of the year 1913. Provided, of course, that nothing interfores: I mean, that none of the members of the Code Commission shall be unable to carry on . hir duties, that the discussion, translation or revision of the vortous drafts shall not be delayed owing to circumstances not under control, that unexpected difficulties shall not arise, that more claborate drafts than present contemplated shall not be required in matters, like commerce by sea, for which I propose to make only short summary provisions. I would like to impress upon the Government the idea that the present staff of the Code Commission is sufficient to execute the work within the specified time, but nothing more. Whatever activity may be displayed by my assistants and myself, the Government cannot expect the Codification to be ended before 1913. As a comparison, I may state that when I took over the compilation of the Penal Code, a large amount of work had already been done. Yet I began looking at the matter in February 1905 and the Code was not enacted until the 1st of June 1908. It took more than three years to get it passed. Now the Penal Code consists of 340 Sections, whilst the rest of the Codification may easily include more than 5500 sections.

the Codification in which foreign cases will be most concerned are the following:-

Oriminal Law.

The new Penal Code boing applicable in the International courts, the question is settled so far as the Griminal Law is concerned.

ocuntry. The new members of the Code Correlation are not likely to understand it until they have been in Siam for the year or two. They could not undertake its codification just now. My intention is therefore to leave it to be examined with the Siamese Law concerning family and inheritance, which is to be codified last of all. The delay does not matter very much. The law is so peculiar that it is almost impossible to introduce in it foreign elements by way of case-law.

* The most urgently needed part of the codification is the Law on Contracts. It is earnestly required for the settlement of Siamese eases as well as for the settlement of foreign cases. That is why we took it over first of all. A large part of the work has already been done in Paris by the Commission. Not only the law on Contracts was examined but also questions concerning Wrongful Acts (or Torts) and Unjust Enrichment, that is to say the whole of the matter which is known as "the Law on Obligations" in the modern#Codes.

The Siamese Codification as described in the French and Japanese Treaties includes a Civil and

Commercial Code. The Law on Obligations would constitute an important part of such a Code. The Commission has already proposed to the Ministry of Justice to adopt, for the Civil and Commercial Code, the following main divisions:

Proliminary .- General Provisions.

· Book I. - Persons

Division I. - Natural Persons (Nationality, Capacity, Marriage, Divorce,

Guardianship).

Division II. - Invidical Persons (Corporations,
Public bodies, Associations,
Companies, Foundations).

Book II. - Roal rights.

Division I. - Object of real Rights (Moveable property, Immoveable property, Interary, artistic and industrial property).

Division II. - Possesson.

Division III. - Ownership.

Division IV. - Servitudes or easements.

Book III. - Obligations

Division I. - General Rules.

Division II. - Specific Contracts (Sale, Hire,
Loan, Deposit, Agency, Pledge,
Negociable Instruments, etc..)

Book IV. - Inheritance and Wills.

Book V. - Provisions of Private International Law.

Even should those main divisions be slightly will urbands altered, the Book III "Obligations" will urbands constitute about half of the whole gode. It is therefore a most important piece of work.

Mar to how the Codification of the Civil and Commercial Law, including Obligations, could be conducted

I have submitted a scheme to the Government in Februry 1908. I explained then that the Civil and Commerrial Law could be made in two ways, either by compiling first a Gode on Obligations and afterwards a Code on Family, Property and Inheritance, thus dividing the matter into two codes, or by publishing the whole of the matter at one and the same time as a Civil and Commercial Code. The second method is the best from the legal point of view. The different parts of the Civil and Commercial Naw are closely connected. Rules adopted in matters of Pamily or Property have an influence on the rules to be adopted in matters of Obligations, and vice versa. The rules or Prescription and Limitation apply to actions arising out of Property or Inheritance as well as to actions arising out of Contracts. The rules concerning Possession, which are part of the Law on Property, are frequently applied in cases concerning contracts. It is therefore much safer not to promulgate a portion of the civil and commercial Law before the other portions have been thoroughly examined. A Civil and Commercial Code compiled and published as a whole is less likely to show gaps or want of harmony.

On the other hand I quite understand that the Siamese Government with like to have the Law on Obligations enacted first and not to wait for it till the whole Civil and Commercial Code is published, fat is to say till the year 1912 or 1913.

Therefore, after having consulted wit Messrs.

Monoharville, Juyon Rivière, I beg to submit to

the Siamese Government the following proposal, which
is likely to meet both sides of the question.

The Gode Commission would presently devote the the whole of a time to the completion of a Draft today

ch obligations, including in it not only Book IF of the Civil and Commercial Code, but also such parts of the Preliminary and of Book II (Property) as ray

be deemed to reason to annex to it. This dreft might be purely in a see following till:

After the enactment of the reads on the leations

. obligations.a

the Commission would take over the Law on Family,
Property and Inheritance. But instead of publishing
it as a second separate Gode, we would anadgamate to Allegan with the post on Obligations and issue the whole as a Civil and Commercial Code. The several Divisions or fitles of the second on Obligations would be put in such place as originally assigned to them in the draft scheme of Civil & Cornercial Code referred above. The main part of the Civil & Cornercial Code referred above. The main part of the Civil & Cornercial Code. The part concerning Possession shall be embodied in Division II of Book II, and so on. Meanwhile, such Sections

consistent enough with the newly drawn provisions would be amended, and also such Sections as the practice in Court may show to require alteration. The whole will then constitute the Siamese Civil and Commercial Code and would be published as such.

Overment should publicly disclose their intention to issue the federal Obligations as a temporary measure only, and to embody it later on in a more comprehensive Civil & Commercial Code. It will be quite sufficient to state that the Covernment has decided to publish first the part of the Civil and Commercial Law which concerns contracts, because it is the most urgently required, the rest of the Civil and Commercial code Law to be codified afterwards.

If the Government agreed to take that course, we shall at once try to complete the Draft gations. A revision of the text framed in Paris is now going on. So far as the 400 sections concerning General Provisions are concerned, the revision be finished by the middle or the end of August, and those sections will be ready for submission to a Commission including Siamese Rembers. That Commission may therefore be appointed now. I think it is understood that it shall be composed of the European staff of the code commission, and three Siamese Judges, under the Presidency of the Minister of Justice. The Commission shall be a "Commission for the compilation of a Code on Obligations. Assuming that the revised text prepared by us be ready by the middle of August, it may be distributed at once to the Members of the Commission and the first meeting may be held in September.

II. -

The Siamese Government have experienced the greatest difficulties in getting the Penal Gode translated into Siamese and having the translation revised. As a matter of fact, we did not quite well realise the difficulty until the english draft was fully completed. It do only then that the first Siamese text drawn by the Siamese members of the mixed Commission was more carefully examined and found to be inadequate. About six months were devoted to its revision and correction.

We must do our best to avoid the same difficulties

and delay in the 24vii and Commission Codification, particularly for the Criminal Procedure Code and for the Code on Obligations. I propose therefore that the Siamese translation of these Codes be carried out and revised progressively, as we would go on with the English text. The Code on Obligations may include from 1200 to 1500 sections. The Code of Griminal Procedure may include shout 500 sections. It would be rather discouraging for the interpreters to get at one time such long texts to translate or even to revise. Whilst if they get say some 50 sections every week, they can easily make the translation little by little.

I think the translation ought to be entrusted to the Siamese members of the Commission. Having taken part in the discussion during the meetings, they will be in the best position to make clear the meaning of the English provisions. But I would like also their translation to be checked by a person not being a member of the Commission in order to ascertain whether the text compiled by the Siamese members of the Commission is easily intelligible to persons who were not present at the meetings of the Commission.

Both the Siamese and the English texts could thus be ready by the same time.

III -

Besides the Givil and Commercial Code, the pro-

The Code of Criminal Procedure.

The Code of Civil Procedure.

The Law of organization of Courts.

A considerable amount of work has been already done by Mr. Guyon in connection with the Criminal Procedure. Mr. Guyon has compiled a Draft Code in which the materials collected by him in Bangkok have

with the inglish test. The Code on Obligations may include from IROS to IROS meetions. The Code,of Driminal Procedure may include about 800 meetions. It would be rather discouraging for the interpreture to get at one time such long tests to translate or even to revise. Whilst if they get say some 80 meetions every week, they can easily make the translation little by little.

I think the translation ought to be entrusted to the Siamese members of the Commission. Wring taken part in the discussion turing the meetings, will be in the best position to make clear the meaning of the English provisions. But I would like also their translation to be checked by a person not being a member of the Commission in order to ascertain whether the text compiled by the Siamese members of the Commission is easily intelligible to persons who were not present at the mootings of the Commission.

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III -

gramme of the Codification includes:

The Code of Criminal Procedure.

The Jode of Civil Procedure. .

The Law of organisation of Courts.

done by Mr. Guyon in connection with the Criminal Procedure. Mr. Guyon has compiled a Draft Code in which the materials collected by him in Bangkok have been used, together with numerous extracts of the Indian, Japanese, Egyptian, Prench, German & Spanish Godes of Criminal Procedure. The draft is purposely made a very long one, extending over 789 sections.

I had instructed it. Guron to include in it every possible point connected with Grininal Procedure, so that nothing could be overlooked when the time comes for discussion. He has therefore provisions which are not essential and which may be shortened or omitted. When we shall revise it, I propose to cut down a large part of it and reduce it to the 3/4 or 3/5 of its present length.

First before undertaking such revision, the Commission would like a certain number of important points concerning Criminal Procedure to be examined and decided by the Covernment. I am now preparing a memorandum on those points, stating for each particular question what the present practice is, whether it seems to require alterations or not, and which kind of alterations could be promosed. I think I shall be able to submit that memorandum to the Ministry of Justice in August. Several other Ministerial Departments and even the Foreign Office. Presumably a meeting of Representatives of these various Ministries will be necessary in order to come to an understanding.

After an understanding is reached on such preliminary points, the Draft Code shall be amended accordingly, revised, and then submitted for discussion to a mixed Commission including Siamese members.

If there was no pressure of time, I would like Messrs. Moncharville, Guyon, Rivière and L'Evesque to regularly sit as members in both mixed Commissions,

viz. the Commission for the Criminal Procedure Code and the Commission for the Cole on Marking. Gur / Love Calculated that Should each Commission meet twice a week, Mr. Guyon would be obliged for several months to devote one third of his time to the Divil Law and Messrs. Mon-

Criminal Procedure. I am automate mere the common do that; it would delay both the work on the criminal Procedure and the work on the civil law.

on the other hand, it is essential that each member of the European staff should take a certain part in the preparation of the whole of the codification. · I have selected men having different trainings, vis. Instiz Francisco a Professor, a Ne a Barrister, in order to have different points of view represented in the commission. The work would not be astisfactory if the Professor would do alone part of it, and the Barrister another part of it, and so on. I propose therefore that the mixed Cormission for the Gode on Obli-Ma. Grupe and that the Commission for the Contract that a make gations should not include forly Messra. Suyon & L. B. vesque, but I propose also that the final revision of each prelimmary draft to be submitted to these Commissions be carried out by the whole of the Europoan staff. Then Mr. Guyon will participate in the present revision of the Draft Gode on Obligations which short last about one month. On the other hand, Messr. Monoharville & Rivière shaki participate in the revision of the draft Criminal Procedure Code which shall take place between the settlement of the preliminary points and the discussion by a mixed Commission.

VIII. -

how long the compilation of each separate part of the Codification shall last. The agreements made with the members of the Code Commission provide that they shall stay at least four years in the Government

charville and Rivière one third or their time to the Griminal Procedure. I am a freid we cannot afford to do that; it would delay both the work on the Griminal Procedure and the work on the Civil Law!

On the other hand, it is essential that each monber of the European staff should take a certain part in the preparation of the whole of the Codification. I have selected men having different trainings, vis. a Barrister, in order to a Professor a have different points of view represented in the commission. The work would not be satisfactory if the Professor would do alone part of it, and the Berrister another part of it, and so on. I propose there-Me Grayen and that the Commission for the Code on Obli-me Grayen and that the Commission for the Commission Francisco Francisco Rada melute mations should not include fonly Messrs: Guyon & L'Evesque, but I propose also that the final revision of each prelimmary draft to be submitted to these Commissions be carried out by the whole of the European staff. Then Mr. Guyon will participate in the present revision of the Draft Code on Obligations which short last about one month. On the other hand, Messr. Moncharville & Rivière shahl participate in the revision of the draft Criminal Procedure Code which shall take place between the settlement of the preliminary points and the discussion by a mixed Commission.

MIL -

how long the compilation of each separate part of the Codification shall last. The agree tents made with the members of the Code Commission provide that they shall stay at least four years in the Government

ment they shall be entitled to 6 months leave. The most convenient thing for the dovernment would be not to allow the Members of the Cormission to go on leave at different periods, but to let them go at the same time, say for instance from April to October 1911, and suspend the Codification during that time. If they should go on leave separately, the Cormission would be obliged to go on with a reduced staff during IS months or 3 years, which would be much more econvenient.

tend over two periods: a period of about 30 months
from now to April 1911 and a period of say 2 years
from October 1911 to the 'unddle of 1913.

If the Civil and Commercial Code was to be published as a whole in 1912 or 1913, I think we could during the first period (up to April 1911) have the Criminal Procedure Code ready for submission to His Majesty, and also have the part of the Civil Code concerning obligations entirely compiled.

But if the Government agree on my proposal, that is to say to publish first a separate ede on Obligations, I am doubtful whether I can have such code law also ready for signature during the first period.

To have the Law on Obligations prepared as part of a general draft Civil & Commercial Code, or to have it prepared as a separate is not at all the same thing. First, the code on Obligations must include several provisions which I intended to examine during the second period only (e. g: theory of Possession). Secondly, we shall be obliged to carry on separately a final revision of the code on Obligations by a higher Committee, whilst I originally thought that the final revision of the whole of the Civil Codifi-

cation, including Persons, Real Rights, Obligations a Inheritance would take place at the same time during the second period. I cannot therefore promise that both the Criminal Procedure Code and the Code on Obligations shall be ready for signature by April 1911. To say the truth, I cut afraid one of them (very likely the Code on Obligations) shall not be ready at that time. The increase of work which shall unavoidably result from the division of the Civil's Commercial Code is precisely one of these unexpected difficulties which I was speaking of when I stated that the Codification would be ready in four years provided that nothing interfores. I wish to make the point as clear as possible to prevent any future misunderstanding.

gations is not ready by April 1911 it may be ready by the end of 1912 and that the whole Codification shall be finished during the currency of the year 1913, the second period being devoted to the compilation of the last part of the Civil & Commercial Law and to the preparation of the Civil Pricedure and Law of Organization of Courts.

Ev. -

The compilation of the four codes is not the only Legislative work to be presently undertaken. Ince the Siamese Courts have taken jurisdiction over French and British subjects, and are likely to take jurisdiction over other foreign subjects, it becomes more and more urgent to provide for a certain amount of Legislation outside the codes.

I. - Separate laws would be extremely useful to cover matters which were governed in the Prench and Builtoh Courts by the French or

English Law, and for which there is present in no Siamese statute. For instance the provisions of the English Merchandize marks act, ISS7, and of the Patenta Designs and Trade marks acts, ISS5 to ISSS, were applicable by the British downt for Siam. The provisions of the French Law on Trade marks and Patents were applicable by the French Consular Court. At present, the protection afforded to British, French and Siamese subjects by those foreign laws does not exist any more, since such Laws are not applicable by Siamese Courts.

Another instance is the matter of Expropriation for Public Purposes. So long as French and British subjects were under their respective Consular Courts and officials, it was possible to come to some understanding as to the taking of their land for public purposes. At present, this would be more difficult, because there is no Siamese Law on Expropriation.

Bosides, British subjects are now allowed to freely acquire land, so that the cases for expropriation of immoveable property belonging to them

matters where siamese subjects only were concerned till now, but where foreign subjects will be interested also in future. Several existing laws or regulations like the Customs regulations or the Excise law are not very well framed. They were accepted by the Legations in their English form and subject to various restrictions or alterations. Now, the restrictions or alterations do not exist any more, the Siamese text alone becomes applicable, but when there shall be a case of applying such text in the to foreigners and principally to British born subjects, no doubt the parties

they will take advantage of every possible weak point.

I would advise the Bovernment to revise them. The
Law on Navigation also requires to be amended. Some
further legislation on Arms and Armsmition, Explosives, Boilers on land, Registration of Births and Deaths,
Storage of petroleum and dangerous goods, etc. has
been under sonsideration for the last three or four
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about the possibility of having in Bangkok a municipal Organization. Municipal Organization means promulgation of a municipal Com and of numerous municipal Pegulations. The hames Government have often given to execute understand that the extenses by execution

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facilitate negociations about abolition of exterritorial rights?

V1. -

meso questions knows that it is extremely difficult to get reliable information about the existing Siamese statute law. Except for the laws collected in the two volumes published by H. R. H. Prince Rajburi. the in-

and their downseld cashe discuss them thoroughly and they will take advantage of every possible weak point. I would advise the Government to revise them. The Law on Navigation also requires to be amended. Some further legislation on Arms and Ausminition, Explosives, Boilers on land, Registration of Births and Deaths, Storage of petroleum and dangerous goods, qtc, has been under consideration for the last three or four years. Its encotment would considerably improve the present struction. The structure, there has been it he about the pombility of having in Bongkok a municipal Organization. municipal Organization means promulgation of a municipal Com and of rumerous municipal Regulations. The L'amese Government Love often given B etem in inderstand that the existence of exteritowiel jurisdiction was a permanent obstacle to legis-and adminutation, lative improvements. May I suggest that it would not be advisable to let the Legations think that the argument was not effective and was only intended to facilitate negosiations about abolition of exterritorial rights?

V3. -

mescapinations knows that it is extremely difficult to get reliable information about the existing Slamese statute law. Except for the laws collected in the two yolumes published by H. R. H. Prince Rajburi, the investigations in order to get the text of a Slamese Law or Prakat are exceedingly hazardous. Very few Slamese lawyers have a full knowledge of the Slamese Law. From my personal practice as a Judge in the Bangkok Appeal Court I know that even in matters governed by rather modern texts, I mean laws enacted during the last 15 years, it is most common to the ordinary Judge to give judgment without quoting the Law or even making an allusion to its existence. As a striking instance, I may say that until recently I had no know-

ladge of the existence of the "deining Bream of dontrant Ast of the year 117. I did not know of it when i prepared the provision or section 385 nº 90 of the Penal Gode, which I thought to be altogether a new provision in dismone Law. When he mixed commission exemined my to et. I pointed Section 335 nº 32 as being the Commission would say it we not . Later on, I M. Later on, I was asked by the Ministry of Pinance to prepare norse legislation concerning the Labour Contracts, My work was funder the same wind many and neither the Ministry of Finance nor any come persons whom about the matter would correct my error. It is only at the end of 1907 that I happened by mere chance to come across the text of the Law of the year 117, which I found in the Police Kanual edited by Mr Lawson.

ormercial cases where there is no Siamese Law or practice, the International Courts would be guided, so far as circumstances admit, by British statutes & cases. I venture to say that if nothing is done to improve the present situation; British statutes & cases have be applied in a number of litigations where a Siamese Law or practice exists, simply because the roroign Judge or Advisor, even being assisted by Siamese Judges, chall not be informed of the existence of such Siamese practice or Law.

would be to collect and publish inglish translations of the Siamese statutes which are more likely to be applied in foreign cases, and elso to collect and reprint the various laws which have already been published in English, but the copies of which are almost unobtainable at present. As an instance, I may

and in English, the remainder being still untranslated. British subjects are likely to be prosecuted for offences against the Option law, and the officen law presently applicable to them is not such part only as was transformed by the British legation into King's Regulations; It is the whole Simpese Option law.

The same thing, in my opinion, should be made for the Laws to be enacted in future. The Government has decided that the Codes were to be published in English and French. It seems that any laws of importance, particularly any laws applicable to foreign subjects, ought to be published in English also. There is no necessity of making the publication an official one, and to officially certify the correctness of the English version. The Siamese text must be and remain the only official one. But it would be extremely convenient for all those who are not fully conversant with the legal Siamese (that is to say, for the great majority of the Foreign community) to get easily acquainted with the Siamese legislation. As a matter of fact, the practice already exists. Most of the recent enactments have been published in English by the local papers. What I propose is to make it a regular practice, to have the translations checked by reliable interpreters, and to print the various decrees in the same way, in the same size, with only one set of pages, so that they might be bound together at intervals, and tables of contents made with Index.

If the suggestion he adopted, I would propose that the criming texts be collected and translated (when no translation yet exists) by each competent Ministry, but that the arrangement, distribution and

printing be made under the control of the Code Commission, to secure proper uniformity. The publication might be made at periodical intervals. It might inclute, together with the laws, a summary of such judicial decisions as are likely to interest the whole community. It is not sufficient that the law itself be known. It is also necessary for the public to know . how the law is construct and applied. For instance the Dika Court has presently to decide on several cases involving construction of various sections of the Penal Code. A publication in inglish of the judgments given by the Dika in such cases would & be extremely useful to the public. Besides, it would show to the foreign countries that the enactment of Codes is not considered by the Siamese Government merely as a way of getting rid of exterritorial rights; and that, on the contrary, the Codes are carefully applied by the Siamese Courts with the utmost desire of raising the judicial and logislative standard of the country to a high level.

WII. -

Should the Siamese Covernment decide to undertake the legislative reforms described in N° V and D
a large part of such work is bound to fall on the
Code Commission.

recessary that every fraft laws or regulations prepared by the various Ministries be communicated to the Commission before they be submitted to His Majesty, in order that the Commission might ascertain whether

there is anything in them which is inconsistent either with the Codes alresty promulgated, or with the general principles of the future Cotification. I beg to make clear that I do not wish to interfere to any extent with the attributions of the separate Departments. But I think it would be very upeful for these Departments themselves, when they are preparing new laws or regulations, to be warned of the possible results of the provisions which they propose to issue. For instance, the Penal Godo contains a general sysiem of Griminal Law. When penal provisions are inserted in a new law, 2t is essential that they be consistent with the system of the Penel Code. To take an example, the Penal Code provides for a long list of perty offences, and there is a mouliar system about liability, attempt, and accessories (in case of petty offences. Petty offences are premiohable even if done unintentionally; an attempt to commit a · petty oftence is not punishable. Whilst ordinary offences are jumishable only if done intentionally, and an attempte to commit and ordinary offence is punishate. Petty offences are aired into four clames those of class A voing punished wire fine up to 12 Vicals, More of class B with fine cy to 50 Weals there of class c with insprisonment up to 10 days or fine up to 50 Times or Total, those of clan D with myrisonment up to one month or frie up to 100 Vicals or Total how, petty openies many breaches of Police Regulations. Non-Suppose it be found advisable to make supplementary Police Regulations. The soundest system would be to make the breaches of the supplementary Regulations petty . offences under the Penal Code, and distribute them

A, B, C, D

in distribute classes according to their respective importance, in the same way as the other breaches of Police Regulations punished by the Penal Cote. A for That would be for better store & punish them say with fine up to 200 ticals or imprisonment

inserted in a new law, it is essential that they be consistent with the system of the Penal Code. To take an example, the Penal Code provides for a long list of perty offences, and there is a prouliar system about liability, attempt and accessories in case of petty offences. Pettij offences are pusishable even 4 done unintentionally; an attempt to commit a petty offence is not punishable. Whilst ordinary offences are , unishable only if done intentionally and an attempte to commit and ordinary ofence is runishails Detty ofences are aired into four clames these of class A Doma junished was fine up to 12 Weals those of class B mian fine eyy to 50 ricals there of class & with imprisonment up to 10 days or fine up to 50 Ticals or voth those of can I will myrisonment up a one month or five up to 100 Vicals or Total. how petty openies many breaches of Police Regulations. Non Suppose it be found advisable to make supplementary Police Regulations. The soundest system would be to make . the breaches of the supplementary Regulations petty offences under the Penal Code, and distribute them in that classes according to their respective importance, in the same way as the other breaches of Police Regulations punished by the Fenal Cote. A few That would be for better thom 6 punish them say with fine up to 200 ticals or imprisonment not exceeding to month, because it would be uncertain whether these breaches are petty offences or normany openies, whether they are jumistable a not when committed unintentionally, where an attempt to commit med breach to primitable or not as another illustration I would say that a few weeks ago, the Ministry of Local Government asked 17 for my opinion about draft Regulations concerning the taking of a census in Bangkok. There were in the draft penal provisions punishing those persons who refuse to answer the questions of the onumerators, or give false information, or obstruct the enumerators, etc. I pointed that penalties were already provided in the Penal Code for those wind offence;

see Section 354 1º 1, 2 & 4 and Sections 216 to 180)
and that the people provisions could be removed from
the draft.

If, much pre-cautions be mor taken we would be rapidly working under a number of different orininal systems, I near different systems for liability, attempt, extenunting circumstances, reclaive, etc. It would be cun-Tueing for the sublic as well as for the Courts. From the new logical point of them, there is no water why the himsten ofences thould be juming hed by the in different manners thing thanks for instance the fact of Attenting an opitial of ministed one way when the official Februar To a arham ministry and another may when the official Belongs to another minutes on to another Department of the some hunister. There is no kasen why the imprison ment should be so much when the obstruction refers to the collection of taxes, and so much when the obstguotion refers to execution of Police Regulations, and so on. Resides, the Government are supposed to have carefully examined the system of the Fenel Code when such occe was ensoted, and to considered it the most advisable to adopt. Why should they a short time afterwards put mother systemsin force for such or such particular kind of offencest. A similar argument apply to the Civil and Compercial law. Rules for limitation of actions, possession, liability for wrongful acts, damages, etc. etc. must be made as consistent as possible whether they are to be provided in the Codes or in separate laws. ferent legal civil and commercial systems into force simultaneously. Simplicity and uniformity ere the best guarantee that legal system shall be worked out easily by the Siamere Courts. The Siamere difficult tack & performed Judge during the new a very house to to during the new terms. Complications and incomprended as the as we can.

The control for the uniformity of legislation involve an appreciable amount of work for the Legislative service. Presumbly, the cooperation of the legislative Adviser shall slac to required for the revision of some existing laws or the preparation of new laws or Regulations. Up to now, I have contributed to the amendment of winon of the Customs Regulations, the Navigation law, ent. Araft acts on Arms and Ammunition. Registration of Births and Beaths, ch. to me for perioder. In other matters (latour Contracts Act, Petroleum Act, etc.) I had to prepere full drafts. The recent legislation about Military and Haval Justice, too, has been mostly drawn by the legislative Advisor. It is quite natural that the same be done in future and that whenever a law of general importance is teing prepared, the legislative Service should be entrusted either with its occupilation or at least with its revision, since it is the best way to secure proper harmony between the dirrerent parts of the legislative and administrative reforms. shall be able to

But it is a question whether I make secure a complete and rapid execution such additional work with the
present staff of the legislative Service. I wish again
to make clear that the present composition of the Code
Commission was decided in Pebruary 1908, that the negociations for the English Treaty were not much advanced
at that time, & that the only thing I could then anticipate was the compilation of the Codes referred in the
Japanese and French Treaties. At present, the situation
is different. The Siamese Coverment certainly realize
that since they have taken purisdiction over a large part
of the foreign community, including Europeans, they are
morally bound to execute such improvements as may be expected from a Power which has decided to run its adminis-



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July moth, 1909.

KTHORANDUM -

I. -

The fourth member of the Code Cormission, Mr.
Rivière, having arrived in Bangkok, I have at once
convened the cormission in order to examine how the
work of Codification could be now carried on.

I understand that the Siamese Covernment desire to have the whole of the Codification completed as soon as possible, and that they would also like to publish separately and within the shortest period consistent with the nature of the work such parts of the Codification as shall govern the majority of cases in which foreigners are concerned.

period between the ratification of the Treaties and the completion of the Codification should not last too many years. It is desirable because on the completion of the Codification the full jurisdiction over the foreigners concerned in such treaties will be transfered to the ordinary Siamese Courts. It is desirable also because during such transitory period there will be some uncertainty as to the proper law to be applied in a number of foreign cases, and in the absence of any definite Siamese law or practice a case-law mostly based on foreign precedents.

may be created, which might eventually conflict with

the principles adopted in the future codes and interfero to a certain extent with the publication of these codes.

Fith regard to the completion of the Codification, I cannot say anything more than what I have stated in my previous reports. Judging from that part of the work which has already been done, I confidently expect that the whole work entrusted to the Course sion shall be finished in four years, say during the ourrency of the year 1913. Provided, of course, that nothing interferes: I mean, that none of the numbers of the Code Commission shall be unable to carry on his duties, that the dismussion, translation or revision of the various drafts shall not be delayed owing to circumstances not under our control, that mexpected difficulties shall not arise, that more elaborate drafts than at present contemplated shall not be required in matters, like commerce by sea, for which I propose to make only short survey provisions. I would like to impress upon the Government the idea that the present staff of the code Cormission is sufficient to execute the work within the specified time, but nothing more. Whatever activity may be displayed by my assistants and myself, the Government cannot oxnext the Codification to be ended before 1913. As a comparison, I may state that when I took over the oumpilation of the Penal Code, a large amount of work had already been done. Yet I began looking at the matter in Followery 1905 and the Godo was not enacted until the Ist of Jung 1908. It took more than three years to get it passed. Now the Penal Gode consists of 340 Sections, whilst the rest of the Codification

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may easily include more than 3500 Sections.

with regard to the second point, the parts of the Codification in which foreign cases are likely to be nost concerned are the following:-

Criminal Law.

Law on Contracts,

hew on landed property.

. The new Penal Code being applicable in the International Courts, the question is settled so far as the Griminal Law'is concorned.

ountry. The new numbers of the Code Corrission are not likely to understand it until they have been in Siam for a year or two. They could not undertake its Codification just now. My intention is therefore to leave it to be examined with the Siamese Law concerning family and in critance, which is to be codified last of all. The delay does not matter very much. The Law is so peculiar that it is almost impossible to introduce in it foreign elements by way of case-law.

The most urgently needed part of the Codification is the Law on Contracts. It is carnestly required for the settlement of Siamese Cases as well as for the settlement of foreign cases. That is why we took it over first of all. A large part of the work has already been done in Paris by the Commission. Not only the Law on Contracts was exertised but also questions concerning wrongful Acts (or forts) and Unjust Enviouent, that is to say the whole of the matter which is known as "the Law on Obligations" in the modern Codes.

The Siamese Codification as described in the French and Japanese Treatibs includes a Civil and

tute an important part of such a Code. The Commission has already proposed to the Ministry of Justice to adopt, for the Civil and Commercial Code, the following main divisions:

Proliminary. - General Provisions.

Rook I. - Porsons.

Division I. - Natural Persons (Nationality, Capacity, Marriage, Divorce,
Guardianship).

Public bodies, Amsociations,

Companies, Foundations).

Book II. - Real Rights.

Division .I. - Object of real Rights (Noveable property, Immoveable property, Literary, artistic and industrial property).

Division II. - Possession.

. Division III. - Ownership.

Division IV. - Servitudes or easements.

Foot III. - Obligations

Division I. - Ceneral Rules.

Division II. - Specific Contracts (Sale, Hire,
Loun, Deposit, Agency, Pledge,
Negociable Instruments, etc..)

Book IV. - Inheritance and Willa.

Book V. - Provisions of Private International Law.

Even should those main divisions be slightly altered, the Book III "Obligations" will certainly constitute about half of the whole Code. It is therefore a most important piece of work.

As to how the Jodification of the Civil and Commercial Law, including Obligations, could be condusted

I have substitued a scheme to the Government in Pebruary 1008. I explained then that the Civil and Commeroial haw could be made in two ways, either by compi-. line first a codo on obligations and afterwards a code on Family, Property and Inheritance, thus dividing the matter into two Godes, or by publishing the whole of the matter at one and the same time as a Givil and Commercial Cute. The second method is the best from the logal point of view. The different parts of the Civil and Co. proful Law are closely connected. Rules adopted in matters of Family or Proparty have an influence on the rules to be adopted in matters of Obligations, and vice versa. The rules of Prescription and Limitation apply to actions arising out of Property or Inneritance as well as to actions arising out of Contracts. The rules concerning Possession, which are part of the La on Property, are frequently applied in cases concerning contracts. It is therefore much safer not to promulgate a portion of the Civil and Commercial Law before the other portions have been thoroughly examined. A Civil and Commercial Code compiled and published as a whole is less likely to show gaps or want of harmony.

on the other hand I can quite understand that the Siamese Covernment might like to have the Law on Obligations enacted first and not to wait for it till the whole Civil and Commercial Code is published, that is to say till the year 4912 or 1913.

Therefore, after having consulted with Mesers.
Moncharville, Guyon and Rivière, I beg to submit to
the Siamese Government the following proposal, which
is likely to meet both sides of the question.

The Gode Commission would presently devote the whole of its time to the completion of a Draft on

Obligations, including in it not only Book III of the Civil and Cormercial Code, but also such parts of the Preliminary and of Book II (Property) as may be deemed necessary to annex to it. This draft might be published with the following title:

Civil and Commercial Code.
Obligations.

After the enactment of the part concerning Obligations the Commission would take over the Law on Pamily, Property and Inheritance. But instead of publishing it as a second separate Jode, we would amalgamade it with the part on Obligations already enacted and lesue the whole as a Civil and Commercial Code. The several Divisions or Titles of the Part on Obligations would be put in such place as originally assigned to them in the draft scheme of Civil & Commercial Code referred above. The main part would become Book III of the Civil & Cormercial Code. The part concerning Possession will be embodied in Division II of Book II, and so on. Meanwhile, such provisions relating to Obligations as may be found not to be consistent enough with the newly drawn provisions would be amended, and also such Sections as the pragtice in Court may show to require alteration. The whole will then occustitute the Siamese Civil and Commercial Oode and would be published as such.

Overnment should publicly disclose their intention to issue the Part-concerning Obligations as a temporary measure only, and to embody it later on in a more comprehensive Civil & Commercial Code. It will be quite sufficient to state that the Covernment has decided to publish first the part of the Civil and Commercial Law which concerns contracts, because it

is the most ungently required, the rest of the Civil and Commercial Law to be codified afterwards.

If the dovernment agree to take that course, we shall at once try to complete the Braft concerning Obligations. A revision of the text framed in Paris is " HOW going on Bo far as the 400 Seations concerning demoral Provisions are denderned, the revision will be finished by the middle or the end of August, and thewe Sections will be ready for submission to a commission including Siamese members. That Commission may therefore be appointed now. I think it is understood that it shall be composed of the European staff of the Code Commission, and three Sieness Judges, under the Presidency of the Minister of Justice. The Commission shall be a "Consission for the compilation of a code on Obligations". Asseming that the revised text propared by us be ready by the middle of August, it may be distributed at once to the Hembers of the Country sion and the first meeting may be held in September.

I. -

test difficulties in getting the Penal Code translated into Siamese and having the translation revised. As a matter of fact, we did not quite realize the difficulty until the English draft was fully completed. It was only then that the first Siamese text drawn by the Siamese members of the mixed Commission was more carefully examined and found to be inadequate. About six months were devoted to its revision and corrections.

We must do our best to avoid the same difficulties

and delay in the rest of the Codification, particularly for the Criminal Procedure Code and for the Code on Obligations. I propose therefore that the Siamese translation of these Codes be carried out and revised processively, as we so on with the English text. The Code on Obligations may include from 1200 to 1500 Sections. The Code of Criminal Procedure may include about 500 Sections. It would be rather discouraging for the interpreters to get at one time such long texts to translate or even to revise. Whilst if they get say some 50 Sections every week, they can easily make the translation little by little.

I think the translation ought to be entrusted to the Siamose members of the Commission. Having taken part in the discussion during the meetings, they will be in the best position to make clear the meaning of the English provisions. But I would like also their translation to be checked by a person not being a member of the Commission, in order to ascertain whether the text compiled by the Siamese members of the Commission is easily intelligible to persons who were not present at the meetings of the Commission.

Both the Siamese and the English toxts could thus be ready at the same time.

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making the terminal and the terminal transfer of continues and

graume of the Codification includes:

The Code of Criminal Propedure.

The Code of Civil Procedure.

The Law of organization of Courts.

A considerable amount of work has already been done by Mr. Cuyon in connection with the Oriminal Proceaure, it buyon has compiled a Braft code in which the materials collected by his in Hangkok have been used, together with memerous extracts of the Indian, Javanese, Exyptian, Fronch, Corman & Spanish Codes of Criminal Procedure. The draft is purposely made a very long one, extending over 789 sections. I had instance ted br. Guyon to include in it every possible point connected with Oriminal Procedure, so that nothing could be overlooked when the time comes for discussion. He has therefore drawn up a number of provisions which are not essential and which may be shortened or contted. When we shall revise it, I propose to cut down a large part of it and reduce it to the 3/4 or 3/5 of its present longht.

sion would like a cortain number of important points concerning Criminal Procedure to be examined and decided by the Covernment. I am now preparing a memorandum on those points, stating for each particular question what the present practice is whether it seems to require alteration or not, and which kind of alterations could be proposed. I think I shall be able to submit that memorandum to the kinistry of Justice in August. Several other kinisterial Departments are concerned in the matter: The Kinistry of the Interior, the Ministry of Local Government and even the Poreign Office. Presumably a meeting of Representatives of these various Kinistries will be necessary in order to come to an understanding.

After an understanding is reached on such preliminary points, the Draft Code shall be amended accordingly, revised, and then submitted for discussion to a mixed Commission including Simmess members.

Hesers. Moncharville, Guyon, Rivière and L'Evesque to regularly sit as members in both mixed Commissions, vis. the Commission for the Criminal Procedure Code and the Commission for the Code on Obligations. But I have calculated that should each Commission meet twice a week, Mr. Guyon would be obliged for several months to devote one third of his time to the Civil Law and Messrs. Moncharville and Rivière one third of their time to the Criminal Procedure. I am afraid we cannot afford to do that; it would delay both the work on the Criminal Procedure and the work on the Civil Law.

On the other hand, it is essential that each manber of the European staff should take a certain parti in the proparation of the whole of the Codification. I have selected men having different trainings, vis. a Professor, a Public Prosecutor & a Barrister, in order to have different points of view represented in the commission. The work would not be satisfactory if the Professor would do alone part of it, and the Barrister another part of it, and so on. I propose therefore that the mixed Commission for the Code on Obligations should not include Mr. Suyon and that the Commission for the Griminal Procedure should include only Kesars. Gayon and L'Evesque, but I propose also that the final revision of each preliminary draft to be submitted to these Commissions be carried out by the whole of the European staff. Then Mr. Ouyon will participate in the present revision of the Braft Code on Obligations which will last about one month. On the other hand, Mesars. Monoharville & Rivière will partire Code which shall take place between the settlement of the preliminary points and the discussion by a mixed Complesion.

IV. -

how long the compilation of each separate part of
the Codification shall last. The derements made with
the members of the Code Commission provide that they
shalf stay at least four years in the Government service and that, during the currency of their agreement
they shall be satisfied to 6 months leave. The most
convenient thing for the Covernment would be not
to allow the Hembers of the Commission to go on leave
at different periods, but to let them go at the same
time, say for instance from April to October 1911,
and suspend the Codification during that time. If
they should go on leave separately, the Commission
would be obliged to go on with a reduced staff during
Is months or 2 years, which would be much inconvenient.

then the future work of the Commission shall extend over two periods: a period of about 30 months from now to April 1911 and a period of say 9 years from October 1917 to the middle of 1915.

If the Civil and Commercial Code was to be published as a whole in 1912 or 1913, I think we could during the first period (up to April 1911) have the Griminal Procedure Code ready for submission to His Majosty, and also have the part of the Civil Code concerning obligations entirely compiled.

But if the Government agree on my proposal, that

is to say to publish first a separate Part on Obligations, I am doubtful whether I can have such Part also ready for signature during the first period. To haye the Law on Obligations prepared as part of a general draft Civil & Commercial Code, or to have it propared as a separate Code is not at all the same thing. First, the Part on Obligations if published separately must include several provisions which I intended to examine dring the second period only (e. g: theory of Possession). Secondly, we shall be obliged to carry on separately a final revision of the Part on Obligations by a Righer Committee, whilst I originally thought that the final revision of the whole of the Civil Codification, including Persons, Real Rights, Obligations & Juhoritance would take plaoe at the same time during the second period. I cannot therefore promise that both the Criminal Procedure Gode and the Gode on Obligations shall be ready for signature by April 1911. To say the truth, I am afraid one of them (very likely the code on Obligations) shall not be ready at that time. The increase of work which shall unavoidably result from the division of the Civil & Commercial Code is precisely one of these unexpected difficulties which I was speaking of when I stated that the Codification would be ready in four years provided that nothing interferes. I wish to make the point as clear as possible to prevent any future misunderstanding.

Anyway, I still expect that if the Code on00011gations is not ready by April ISII it may be ready
by the beginning of ISI2 and that the whole Godification shall be finished during the currency of the year

TOTS, the second period being devoted to the compilation of the last part of the Civil & Commercial Law and to the preparation of the Civil Procedure and Law of Organization of Courts.

V. -

only Legislative work to be presently undertaken. Since the Siemese Courts have taken jurisdiction over Prench and British subjects, and are likely to take jurisdiction over other foreign subjects, it becomes nore and more urgent to provide for a certain amount of Legislation outside the Codes.

to cover matters which were governed in the French and British Courts by the French or English Law, and for which there is at present no Siamese statute. For instance the provisions of the English Verchandize marks act, ISE7, and of the Patents Designs and Trade marks acts, ISE3 to IEES, were applicable by the British Court for Siam. The provisions of the French Law on Trade marks and Patents were applicable by the French Consular Court. At present, the protection afforded to British, French and Siamese subjects by those foreign laws does not exist any more, since such Laws are not applicable by Siamese Courts.

Another instance is the matter of Expropriation for Public Purposes. So long as French and British subjects were under their respective Consular Courts and officials, it was possible to come to some understanding as to the taking of their land for public purposes. At present, this would be more difficult,

because there is no Siamese Law on Expropriation.

Besides, Fritish subjects are now allowed to freely acquire land, so that the cases for expropriation of immoveable property belonging to them will became more frequent.

II. - Some other laws would be necessary in matters where Simmose subjects only were concerned till now, but where foreign subjects will be interested also in future. Several existing laws or regulations like the Customs regulations or the Excise law are not very well framed. They were accepted by the Legations in their nglish form only and subject to various restrictions or alterations. Now, the restrictions or alterations do not exist any more, the Siamoso text alone becomes applicable, but when there shall be a case of applying such text to foreigners and principally to Fritish born subjects, no doubt the rarties and their counsel will discuss them thorowhly and they will take advantage of every possible weak point. I would advise the Government to revise them. The Law on Navigation also requires to be amended. Some further legislation on Arms and Ammunition, Explosives, Boilers on land, Registration of Births and Deaths, Storage of petroleum and dangerous goods, etc. has been under consideration for the last three or four years. Its enactment would considerably improve the present situation. Quite recently, there has been a talk about the possibility of having in Bangkok a Municipal Organisation. Municipal Organization means promulgation of a Numicipal Law and of numerous kunicipal Regulations. The Signese Covernment have often given to understand that the existence of exterritorial jurisdiction was a permenent obstacle to legislative and administrative improvements. May I suggest

that it would not be advisable to let the Legations
think that the argument was not effective and was
only intended to facilitate negociations about abolition of exterritorial rights?

VI. -

Every foreigner who has to deal with Siamese legal questions knows that it is extremely difficult to get reliable information about the existing Signese statute law. Except for the laws collected in the two volumes published by E. R. E. Prince Rajburi, the investigations in order to get the text of a Siamese Law or Prakat are exceedingly hamardons. Yeary for Sigmose lawyers have a full knowledge of the Siamese Law. From my persona! practice as a Judge in the Bangkok Appeal Court I know that even in matters governed by rather modern texts. I mean laws enseted during the last 15 years, it is most corner to the ordinary Judge to give judgment without quoting the law or even ma-Ming an allusion to its existence. As a striking instames, I may say that until recently I had no knowledge of the existence of the Griminal Breach of Contract let" of the year II7. I did not know of it when I prepared the provision of section 335 no 20 of the Penal Code, which I thought to be altogether a new provision in Siamese Law. Then the mixed Corrission examined my draft, I pointed to Section 335 nº 20 as being an innovation, and none of the Siamese members of the Corrission contradicted this statement, Later on, I was asked by the Ministry of Pinance to prepare some legislation ocnoerning Labour Contracts. Hy work was done under the same wrong impression, and neither

about the matter corrected my error. It was only at the end of 1907 that I happened by more chance to come across the text of the Law of the year II7, which I found in the Police Manual edited by Mr. Lawson.

The Siamese Covernment has agreed that in any commercial cases where there is no Siamese Law or practice, the International Courts would be guided, so far as
circumstances admit, by British statutes a cases. I
venture to say that if nothing is done to improve the
present situation, British statutes a cases will be
applied in a number of litigations where a Siamese
Law or practice exists, simply because the Poreign
Judge or Adviser, even being assisted by Siamese Judges, will not be informed of the existence of such
Siamese practice or Law.

The best way to prevent such thing from happening would be to collect and publish English translations of the Siamese statutes which are more likely to be applied in foreign cases, and also to collect and reprint the various laws which have already been published in English, but the copies of which are almost unobtainable at present.

the Laws to be enacted in future. The Government has decided that the Codes shall be published in English and French. It seems that any Laws applicable to foreign subjects, ought to be published in English also. There is no necessity of making the publication an official one, not to officially certify the correctness of the English version. The Siamese text must be and remain the only official one. But it would be extremely convenient for all those who are not fully

conversant with legal Simmese (that is to say, for the great majority of the Foreign community) to get easily acquainted with the Simmese legislation. As a matter of fact, the practice already exists. Nost of the recent enactments have been published in English by the local papers. What I propose is to make it a regular practice, to have the translations checked by reliable interpreters, and to print the various deorecs in the same way. In the same size, with only one set of pages, so that they might be bound together at intervals, and tables of contents made with Index.

If the suggestion be adopted, I would propose that the texts be collected and translated (when no translation yet exists) by each competent l'inistry, but that the arrangement, distribution and printing be made under the control of the Gode Commission, to secure proper uniformity. The publication might be made at periodical intervals. It might include, togother with the laws, a surrary of such judicial decisions as are likely to interest the whole commity. It is not sufficient that the law itself be known. It is also necessary for the public to know how the law is construed and applied. For instance, the Dika Court has presently to decide on several cases involving construction of various sections of the Penal Code. A publication in Inglish of the judgments given by the Dika in such cases would be extremely useful to the public. Besides, it would show to the foreign countries that the enactment of Codes is not considered by the Slamose Government merely as a way of getting rid of exterritorial rights, but that, on the contrary, the Codes are carefully applied by the Siamese Courts with the utmost desire of raising the judicial and legislative standard of the country to a high level.

take the legislative reforms described in N. V and.

VI. a large part of such work is bound to fall on the code Commission.

Pirst of all, it seems that it becomes now necensury that every draft law or regulation prepared by the various Ministries be upassumidated to the Commission before they be submitted to His Hajesty, in order that the Commission wight ascertain whether there is anything in them which is inconsistent either with the codes aiready promuigated, or with the general principles of the future codification. I beg to make clear that I do not wish to interfere to- ny extent with the attributions of the separate Departments. But I think it would be very useful for these Departments themselves, when they are preparing new laws or regulations, to be warned of the possible results of the provisions which they propose to issue. For instance, the Penal Code contains a general system of Criminal Lew. Then Penal provisions are inserted in a new law, it is essential that they be consistent with the system of the Penal Code. To take an example, the Penal Code provides for a long list of petty offences, and there is a peculiar system about liability, attempt, accorsories and punishments in case of petty offences Petty offences are pumichable even if done unintentionally; an attempt to commit a potty of ence is not mmishable. Whilst ordinary offences are punishable only if done intentionally, and a attempt to commit an ordinary offence is

punishable. Fetty offences are divided into four classes, those of class A being punished with fine up to is Tionis, those of class h with fine up to 50 Tionis. though or class o with imprisonment up to 10 days or Tine in to so Timala, or both, those of class D with imprisonment up to one month or fine up to IOO Ticals or both. how, potty offences include many breaches of Folice Engulations. Suppose it be found advisable to make supplementary Police Regulations. The soundest system would be to make the breaches of the supplementary hagulations potty orrences under the Penal Code. and distribute them in classes A. B. C or D according to their respective importance, in the same way as the other breaches of Police Regulations punished by the Fenal Code. That would be far better than to punish them say with fine up to 250 Tionis or imprisomment not exceeding two months, bacause it would be uncertain whether these branches are posty offences or ordinary offences, whether they are punisheble or not when committed unintentionally, whether an attempt to commit such breach is punishable or not. As another illustration I would say that a few weeks ago, the Ministry of Local Government asked for my opinion about draft Regulations concerning the taking of a census in Bangkok. There were in the draft penal provisions punishing those persons who should refuse to answer the questions of the enumerators, or give false information, or obstruct the enumerators. etc. I pointed that penalties were already provided in the Penal Gode for those offences (see Section 334 noI, 3 & & and Sections II6 to 120) and that the ponal provisions could be removed from the draft.

If no such precautions be taken we would be

rapidly working under a number of different original systems, I mean different system for liability, attempt externating diremmatamoon, rocidive, etc. It would be confusing for the public as well as for the courts. From the mere locical point of view, there is no reason why two similar offences should be punished by law in different menners. Why should for instance the fact of obstructing un official be punished one way when the official belongs to a contain Ministry and another way when the official belongs to another Ministry or to another Department of the seme Ministry. There is no reason why the imprisomment should be seemuch when the opstruction refers to the collection of taxos, so much when the obstruction refers to execution of Folice Regulations, and so on. Besides, the Covernment are supposed to have carefully examined the system of the Penal dode when such code was engoted, and to have considered it the most Edvisable to adopt. Why should they a short time afterwards put other systems in forge for such or such particular kind of offences? A similar argument will apply to the Stvil and Commercial law. Rules for 11mitation of actions, possession, liability for wrongful acts, damages, etc. eve. must be made as consistent as possible whether they are to be provided in the Codes or in separate laws. Different legal civil and odmiercial systems are not to be put into force simultaneously. Simplicity and uniformity are the best guarantee that a legal system shall be worked out easily by the Siamese Courts. The Siamese Judge will have a very difficult task to perform during the next few years. We must facilitate his task by avoiding complications and inconsistencies as much as we can. WHEN DEPOSIT OF THE PARTY OF TH

The control for the uniformity of legislation will involve an appreciable enount of work for the Legislative service. Presumably, the cooperation of the Legislative Advisor shall also be required for the revision of some existing have or the preparation of new Laws or Regulations. Up to now, I have contri buted to the amendment of revision of the Customs Regulations, of the Bayigation Law, of draft acts on Arms and Armunition, Registration of Birth's and Doaths, etc. In other matters (Labour Contracts Act, Potroleum Act, etc.) I had to propare full drafts. The recent legislation about Willitary and Naval Justice, too, has been mostly drawn by the Legislative Advisor. It is quite natural that the same be done in future and that whenever a law of general importance is being propared, the Legislative Service should be entrusted either with its compilation or at least with its revision, since it is the best way to secure proper harmony between the different perts of the legislative and administrative reforms.

But it is a question shether I shall be able to secure a complete and rapid execution of such additional work with the present staff of the Legislative Service. I wish again to make clear that the present composition of the code Commission was decided in February 1908, that the negociations for the English Treaty were not much advanced at that time, & that the only thing I could then anticipate was the compilation of the Codes referred in the Japanese and French Treaties. At present, the satuation is different. The Siamese Government certainly realize that since they have taken jurisdiction over a large part of the foreign community, including Europeans, they are morally bound to execute such

improvements as may be expected from a Power which has decided to rum its administration on advanced mo-.dern lines. Therefore, if the Slamese Government would like to be sure that the Code on Obligations and the fode of Criminal Procedure shall be ready for protailgation on the beginning of 1911; if they would like to have the necessary amount of legislation outside the dodes prepared or revised as soon as posmible; if they agree also with my proposal to reprint English texts of the existing Laws, and to publish portodically in inglish the row Laws and Regulations, together with superior of ease-law. I think it would be advisable to engage one more man as a member of _ the Code Journssion and perhaps to take one of the young advisors as un assistant secretary. Them J could guaranted that the full programme or codification and other Legislation described in this memorander shalf be carried fit within the above mentioned time.

Bangkok, August Sith 1909.

HARORANDUH -

July, I beg to inform the Minister of Justice that the revision of the General Provisions concerning Obligations is now completed. A very large number of alterations and suppressions were made, with the result that the draft is about 50 sections shorter and looks clearer.

In the monatime, the Commission has prepared illustrations for a great many sections, in order to enable the reader to catch more easily the true meaning and scope of these sections.

The amended draft shall be printed in several copies with the duplicator. I would like to be allowed to use for the printing Mr. Richer and Mr. Bèque, who know how to work the duplicator. The copies may be ready for distribution in about ten days.

It is time therefore that the COMMISSION FOR THE COMPILATION OF A CEDE ON OBLIGATIONS be appointed. I mean the complete Commission placed where the Presidency of the Minister of Justice, or any other high Official appointed by the Government, and including Siamese Judges or Lawyers together with the European staff of the Code Commission.

AMERICAN LEGATION, BANGKOK, SIAM

Mise. Wo. -1.56-

August 28, 1909.

M. George Padoux,

Legislative Advisor,

Ministry of Justice,

Bangkok,

Dear Mr. Padoux :-

Will you kindly let me know just what condition the law on -"The Right of Eminent Domain"- has reached in the work of ording Siam's Laws as yet?

I had a talk some time ago with Mr.

Westengard on this matter and he said it was under a consideration by the Commission.

or so-called corvey labor is in any way recognised by the laws either favorably or adversely please?

Any information on these points will be treated in confidence if so desired.

Yours Respectfully,

Hamiltonthing.



August Soth, 1909.

Donn Mr. Kinn.

Part of the Law on Land the codiliontion of which is not west under consideration. The Jose Cosmission is presently engaged in codifying the Law on obligations and Contracts. It is introbable that the work on the Law on Land shall consence before 1911.

the action is soverhad by special regulations in the Ministry of the Interior. Sorvey is organised in Siam as it is in several ether countries, every able bodied man being bound to contribute a definite number of days per year to the public works in his district, and also to help in transporting . Government officials or meterial whenever necessary at such salary as provided by levershent exist.

Believe me, dear kr. King, Wost respectfully yours.

AMERICAN LEGATION, BANGKOK, BIAM.

1180. No. 160.

September 1, 1909.

Monsieur C. Padoux, Bangkok.

Sir:-

Permit me to thank you sincerely for your 'kind reply of August 31, to my inquiry of the day previous.

Yours Sincerely,

Hamilton King.

September 2nd 1969.

Dear Prince

with reference to our conversation of Saturday about the composition of the Code Commission, I beg to submit the following remark.

The Code one Obligations is to go through three successive stages:

1st stage. - Compilation of a preliminary draft by the European Staff.

and stage. - The preliminary draft is submitted to a Commission including Siamese and European members Every section of the preliminary draft is examined and discussed. New sections are framed is necessary. The work is carried out with a view of embodying in the draft as much as possible of Siamese Law or practice, and meeting the particular wants of the country.

is submitted to a Higher Committee consisting of Nembers of the Covernment. The Higher Committee shall not be bound to consider every legal or technical questions connected with the Code, but only the political or Covernmental questions. The Higher Committee shall do what a Parliament would do in a parliamentary country. For instance, the draft German Civil Code was prepared by a Commission of legal men, professors, judges, lawyers, etc., just the same as the Commission under which the Siamese draft shall pass through the 2nd stage. When the draft was discussed in the Reichstag, the purely legal questions were left aside. The deliberation centred on about fifteen points

omnected with pelitical or social questions, such as civil personality of associations, liability for damages caused by animals, civil marriage, perrental power, etc.

I Appose therefore that the draft Gode compiled by the Commission be submitted to a Higher Committee with a memorandum showing the political or social side of the main provisions, and that those provisions only be discussed. The other provisions shall not be examined, unless a point is raised about any of them by one of the members of the Figher Committee. It is the only way to go safely and rapidly shrough the third stage. If the draft were to be discussed at full lenght, the Higher Committee would not revise more than 20 sections a week, with the result that the revision might last one year or more. Besides, I suppose that most of the members of the Higher Committee would not like to waste their time in going into the details of purely legal matters; they would rather leave these technical points to the technical men in the Code Commission. One may anticipate therefore that the discussion in the Righer Committee shall be limited say to one section out of fifty.

Prince Rajburi is at present the best Siamese legal man. No other person in Bangkok has such a complete knowledge of Siamese Law, combined with Knowledge of European Laws and legal methods. His assistance for compiling the Code would be invaluable. But if his contribution is limited to the discussion in the Higher Committee, he will practically have no opportunity to give his opinion about the legal points and details of the Code. He will only discuss what I call the Governmental points, that is to say about

shall not be examined by him. He will take part in the compilation of the Gode only as a member of the Covernment, not as a legal man.

vil Codification should be made without the assistance of the best Siamese legal man?

I can quite understand that Prince Rabi might be desirous not to permit himself in the Code Commission so as to weaken his subsequent position as a member of the Higher Committee. But it seems to me that when giving an opinion as a legal man on a question which is considered merely from the legal point of view, one is not prevented from giving afterwards different opinion on the same question as a member of the Government. Moreover, it seems it possible for the Prince to reserve his opinion whenever a question comes in the Code Commission on which he thinks that the Government might take a different view from his own view as a legal man.

I think therefore I must insist on the point that if Prince Rajburi does not take part in the work of the Commission there shall be very little opportunity for the Siamese Government and particularly for the Codificate service, to take advantage of the extensive legal knowledge and experience of the present Minister of Justice.

CIVIL CODE.

PROVISION SERAL

> Of the gar low Dis compilerry effect of lane.

> > Every kinds of agreements are permitted, unless contrary to law or to public policy.

Law has no retrocotive effect.

(Promulgation of Lang. time when a come comes into force.

CONTRACT STREET, SERVICE OF STREET

GENERAL PRINCIPLES FOR APPLICATION OR CONSTRUCTION OF LAWS.

PERSONS.

I - NATURAL PERSONS. DIVISION

TITLE 1. - Personal status.

Chapter I. Mationality.

Chapter II. Capacity for exercising civil

II. - Pamily. TITLE

> Chapter I . Marriage.

Chapter A. Divorce.

Chapter 131. Guardianship.

DIVISION II. - JURISTIC PERSONS. Public persons (Government, Ministries, TIPLE Municipalities & Nature and extent of their civil capacity.

II. Associations, Companies, Partnerships)

TITLE III. Endowmente. Favodations (religious, esmissis) educational Laving conjuncte property.

RIGHTS.

I. OBJECT OF REAL RICHTS. DIVISION

> I. Moveable property.

II. Immoveable property. TITLE

Literary, artistic and industrial property. TITLE III. Trade-marks. - Zatenis. -

DIVISION II. POSSESSION.

TITLE I. Acquisition of possessory rights.

TITLE II. Effect of possessory rights.

TITLE III. Extinction of possessory rights.

DIVISION III. OWNERSHIP.

Public Property, or prouse ocknowing to putte I. TITLE

TITLE II. Private property.

Chapter 1. Acquisition of ownership.

fil. Extent of ownership. Chapter

Part I. Pruits.

Part It. Accessories.

Part 201. Co-ownership.

Restrictions resulting Part W. from cadjoining proper-1100. The income of

TITLE III. Restrictions to the private property might

Expropriation for public 1. Chapter purposes.

盘. Mines. Chapter

Chapter Sal. Forests.

DIVISION

IV. SERVITUDES OR EASEMENTS.

COLORA DO COLORA DE COLORA DO COLORA cto.)

TITLE II. Servitudes created by agreement (usufruct superficies, etc.)

- OBLIGATIONS.

DIVISION I. - HOW OBLIGATIONS. APISE.

TITLE I. - Contracts.

Conditions of validity of Chapter contracts.

Part 1. Capacity.

Part M. Consent.

Part III. Object

Chapter &. Effects of contracts.

Part 1. Ac to the parties.

Part &. As to third persons.

Chapter Dil. Determination of contracts.

Part. 1. Determination by Court

Part M. Determination by mutual consent.

Part 201. Determination by condition subsequent.

TITLE II. - Unjust enrichment.

TITLE III. - Wrongful acts.

Chapter I. What may be considered a * wrongful act.

Chapter &. Persons responsible,

Chapter III. Assessment of compensation.

DIVISION II. - NODIFICATIONS TO OBLIGATIONS.

TITLE I. Conditional obligations.

TITUE II. Alternative obligations.

TITLE III. Plurality of debtors and greditors.

Chapter I. Indivisible Obligations.

Chapter A. Joint and several obligations

DIVISION III. - EFFECTS OF OBLIGATIONS.

TITLE I. Effect as to the parties.

Chapter I. Default. of debtor.

Chapter 2. Specific performance, damages, penal clause, carnest money.

Chapter 5. Preferential rights.

Chapter 4. Default of oreditor. Tender and deposit.

TITLE IL. Effects as to third persons.

Chapter I. Exercise bu creditor of debtor's rights.

Chapter 2. Detremination of contracts made in fraud of creditor's rights.

DIVISEON IV. - DETERMINATION OF OBLIGATIONS.

TITLE I. Performance.

TITLE II. Impossibility of performance.

TITLE III. Release.

TITLE IV. Movetion.

TITLE V. Set off.

TITLE VI. Merger.

TITLE VII. Prescription.

DIVISION V. - SPECIFIC CONTRACTS.

TITLE I. Sale.

TITLE II. Exchange.

TITLE III. Hire

Chapter I. Hire of properties.

Chapter 3. Hire or services.

Chapter 3. Hire of work.

Chapter 4. Carriage.

TITLE IV. Loan.

Chapter I Loan for consumption.

Chapter 2. Loan for use.

TITLE V. Deposit.

TITLE VI. Agency.

TITLE VII. Business management.

TITLE VIII. Gift.

of Slamese judgments abroad.

chapter 5 Insurance.

chapter 4. Sea damage. Average.

Chapter S. Carriage by sea-

CUPREDE H. MERCETO SUG SEBA

TITLE III. Release.

TITLE IV. Novation.

Service (Service India)

TITLE V. Set off.

TITLE VI. Merger.

TITLE VII. Prescription.

DIVISION V. - SPECIFIC CONTRACTS.

TITLE 1. Sale.

TITLE II. Exchange.

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Chapter 3. Hire of work.

Chapter 4. Carriage.

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Chapter I. Loan for consumption.

Chapter 2. Loan for use.

TITLE V. Deposit.

TITLE VI. Agency.

TITLE VII. Business management.

TITLE VIII. 01ft.

TITLE IX. Suretyship.

TITLE X. Pledge.

TITLE XI. Mortgage.

TITLE XII. Compromise.

TITLE XIII. Arbitration.

TIME XIV. Wager. Lottery.

TITLE XV: Association. Partnership. Company.

TITLE XVI. Insurance.

Charter I. Insurance against loss.

Chapter 2. Insurance on life.

TITLE IVII. Negaciable instruments.

TITLE XVIII. Current account.

TITLE XIX. Commerce by seat.

Chapter I. Ships and shipowners.

Chapter 2. Masters and orew.

Chapter 3. Carriage by sea.

Chapter 4. Sea damage. Average.

mapter 5. Insurance.

TITLE VII. Prescription.

DIVISIOS V. - SPECIFIC CONTRACTS.

TITLE I. Sale.

TITLE II. Exchange.

TITLE III. Hfre

* Chapter I. Hire of properties.

Chapter 2. Hire of cervices.

Chapter 3. Hire of work.

Chapter 4. Carriage. .

TITLE IV. Loan.

Chapter I. Loan for consumption.

Chapter 2. Loan for use.

TITLE V. Deposit.

TITLE VI. Agency.

TITLE VII. Business management.

TITLE VIII. Gift.

TITLE IX. Suretyship.

TITLE X. Pledge.

TITLE XI. Mortgage.

TITLE XII. Compromise.

TITLE XIII. Arbitration.

TITLE XIV. Wager. Lottery.

TITLE XV. Association. Partnership. Company.

TITLE XVI. Insurance.

Chapter I. Insurance against loss.

Chapter 2. Insurance on life.

TITLE IVII. Negeciable instruments.

TITLE XVIII. Current account.

TITLE XIX. Commerce by sea.

Chapter I. Ships and shipowners.

Chapter 2 Masters and orew.

Chapter 3. Carriage by sea.

Chapter 4. Sea damage. Average.

Chapter 5. Insurance.

BOOK IVI - INHERITANCE - WILLS.

BOOK V. - PROVISIONS OF PRIVATE INT-

every I. Juridical conditions of foreigners

TITLE II. Confiicts of laws.

WITLE ILL. Form of deeds

TITLE IV. Effects of foreign judgments in Siam, and of Siamese judgments abroad.

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m' autez institué.

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der The signi par-tim defaires. Considerité specificades de la la fluctuaire de capitation minusaire, on la capacitation minusaire, on la capacitation minusaire, on la capacitation de
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· Siamese Civil Code.

Obligations.

of the Code.

Memorandum

We Padouse Legislative adviser to the himister of Justice.

When the Codification Commission submitted to the ministry of justice the draft General Provisions concerning Obligations the Commission and not think that the question of the general structure of the whole Code would be discussed to remarks were made therefore as to that structure and no document were submitted regarding the distribution of the future Tiamese Civil Code.

I understand now that the ministry would like the point to be examined. The question has been raised, whether it would not be advisable to publish The Several Provisions of the Code together with the Obligations.

The Codification Commission has just held two meetings on the project. We have revised the traft _ distribution prepared in Paris in february 8 march 1909, and we have examined more closely which rules might be inserted in the General Provisions of the Code.

The endored paper (tr: 1) shows the proposed distribution as a preliminary romain, I must point that the Commission has already proposed to pust the Government to promulgate first the part of the Code concerning. Obligations and Contracts, together with such General Provisions as may be recessary for sourcing a justice construction and application of the rules concerning elligations and contracts.

the parts of the Code concerning Jersons, -Troperty, Inheritance and Private International far, Would be drafted afterwards. When they are finished, The Jeweral Provisions would be researnined and completed. The provisions concerning Obligations Would be invested in Their moper place, and the avilana commercial Code would be published as a whole under one set of numbers

The some al structure of the draft has been made mostly after the Gorman Civil Code, as may be seen from the enclosed summary of that code (n= 2).

But there are dill a certain number of differences between the German Codes and our draft.

The order of Books in the Serman Code is:

1. - Several Frasisions

2 .- Obligations

3, - Troperty.

4 . - Family .

5 . - Inheritance and wills

The proposed order for the Jiamese Code is:

1. - General Provisions.

2. Forsous and Family.

3 .- Troperty.

5. - Inheritance and wills.

6. - Trivate International Law.

The Commission Thought it was a fee to deal first with persons and property and after wards with Obligations because Obligation are, as a rule, legal relations by which persons are bound to do comething with properties. Therefore it seems more logical that persons and properties le défine d'efère obligations. Ehe formans decided to deal with obligations first;

consequently they were obliged to insort in the general provisious one chapeter about persons and one chapiter about property in order to have persons and property defined before dealing with obligations The gapanere have followed very closely Somucin lines in their avil Code - yet they have adopted a different order:

1. - General Gravisions

2. Real rights or Troperty.

3. - Obligations

4 . - Tersous and family

5. Inheritance and wills

that is to say they have put Iroperty before Obligations. Family was left after Obligations, just as in the Serman Code, and therefore a contain number of provisions concerning Geroous We & inserted in the General Froris ions (see ne 3).

The Commission do not think that it was is essential to put Olligations after Vorsous and Croperty rather than to put them before If the Diamese Soverument like better the Gomes order we would not object to it. But we are still of opinion that it is more logical to deal with Persons and Property which are the elements of obligations, before lealing with Obligation

the main difference between the German distribution and the Draft siamesa distribution lies with the contents of the General Gravisions.

The German General Provisions include:

1. Versous

2. - Ehings (or Insperty.)

3. - Juristies acts

4. - Teriod of time

5. . Trescription.

6. - brevise of nights - Self defence - Self help.

7. - The giving of sureties.

the illowing chapters may take place in the samese several provisions:

1 .- Jeneral rules about application and cous-

struction of hour.

E. - Exercice of rights . - Self defence - Self help.

· 3. - Geriod of Time

4 2 Prescription.

that is to say chapters 4. 5. x 6 of the

German Just Provisions.

duction of chapters 7 in the Si amese General Provisions. We are of opinion that it is much clearer to pirt. the giving of surelies in the Book on alligations as being a specific contract. Mortgage of land alone might be placed in the Book concerning Property, because it is intimately connected with the rules concerning tenure of land. With the German system, part of the rules concerning and and surelies are in the General Provisions (ast 232-240), part in the specific contracts (Suretyships, act 755-228), part in the 3th Book, Property (Mertgage, and 1113-1190; pladge, and 1204-1296.)

In the Japanese Code the rules concerning surety-hip are in the Book III (Obligations.) The rules concerning Pledge and Mortgage are. In Book II (Property) just as in the German Code. But there is nothing concerning which in the Several Provisions.

Chapters I (Persons) and & (Property) of the Corwan Several Provisions are quiet unnecessary if the distribution proposed by the Commission is adopted; the whole matter of Persons

and Properties being placed before the Obligations in our draft. I must point that with the eystern suggested by the Commission the matter of Persons or Properties is not divided as it is in the German Gode. It is dealt with in one set of provisions, which I submit is clearer for the guidge. In instance, in the Jermani Code, the provisions concerning minority and majority are in The first Book, section I art 1-20. the contracting capacity of minors is in the first Book, Section III at 104-113. The representer tion of minors by their parents or quardians is in Book IV. Bosides, the general rule, about representation are in Book I, section III, art 164-181. The whole matter is scattered in four different places, whilstine the draft of the commission it is dealt with in the Back concerning Persons, with the only exception of 5 sections about miners in the chapter concerning capacity of parties to a contract.

Then remains chapter 3 of the German-Several Provisions. The chapter is headed "Juristic acts" and contains the following

divisions:

1. - Corposity of exercising rights 2. - Expression of intention

3 - Contracts.

4. - Condition. - lime clause

5. - Representation

6. - authorization. Ratification

the main difficulty in adapting the forman system is the theory of "Juristic acts , are a Law", as trawslated by various commentators.

the Serman Code does not define whata. "Juristic act "is. in M? Jaleilles commen tary it is said that a " Juristi = act " is different from a guristic fact . - " a "juristic fact "is. " a voluntary fact to which the lairgives a a lawful effect, such as a wrongful act. a " Juristic act is an expression of will intented " u to neaté a larrful consequence. I muit confes that I do not quiete well understand the distinc. tion. a wrongful act is defined in the German Code as a voluntary of act; yet the German Code admits that harm done unvoluntarily is also a verongful act. In the german theory, wrongful acts are not Junistic acts; They are Juni, tic facts. the chapter concerning wrong fel acts is therefore titled: " wrongful, facts" in m? labelles translation. Pour curiously enough, the first peich translation of the forman she, by mr. meulenaire use the title "Wrongful acts . The whole distriction being between " acts " and , facts , me translator understands , act " where the other translator understands

The Commission thought that such find distinctions would be wither impossible to un - derotand for the average Judge. I know of Jerman Corryers who do not understand them and basides that, it would be very difficult to translate it in to plain. Diamere.

Japan has adopted the theory of "Genisic achs" but the Japanese look does most define the meaning of the expression . Juristic act:

Chapter I of the German rection on quistice acts well with the , lapacity of overcising rights.

It is devoted to the capacity of minoro and invane persons. The commission think that it would be better to deal with the matter in the Books converning persons and bligations. I have already of hown that the formare Provisions ancevering min are to be found in four different places. — A judge who has to dead whether a contract entered by a minor is valid or not would certainly like better to look at one are two chapt only than to look at four chapters. The commission think therefore that the provisions of chapter I of juristic och would be better placed in the Books encerning porsons and obligations.

Chapter & deals with the a Expression of intention! The commission has just ouridered the point and they think that it may be advisable to have rules concerning expression of intention in the general Provisions. These rules would deal with expression of intention obtained by mistake, duress on fraud. The present draft on obligations contains similar rules, but they rafer only to contracts. It may be useful to extend them to any expression of intention whether the expression refers to a contract or whether it refers to any other declaration having a legal effect.

Chapter 3 deals with Contracts". The nation of Contracts is then divided in the German Code into 2 parts, one in Book I, Section III, chapter 3, the other one in Book II, Section III. It is most inconvenient. In the Japanese Code whatever concerns Critiacts has been placed in Chapter II of Book III concerning Obligations.

We did the came in our draft . Chapter is encouring Conditions and Time clause deals with a matter which is practically connected with obligations why a condition welow a Time clause is something to which the performance of an allination to subject. We are Therefore dealing with conditions and time clause in the Book on Obligations. as to chapter 5 concerning Representation (that is to say pervise belonging to Represente tives the Commission is still uncertain whether it may be advisable to place the matter in the General Travisions or to let it be decided in the specific parts dealing with agency, -Carental Parver Guardiaus hip and admimistralism of Juristic Gersous. We would prefer not to give a definite apinion until we have decided about the said specific The Commission is also inclined to. postpone any decision as to the onlight of chapter 6 authorization. Ratification) until the other parts of the Code are drafted. The Commission think that try counst submit formals proposals regarding the matter unless all the rules concerning abligations and Persons at least have been framed. taking into consideration the fact that the siamere Cte civil Code is made for practical purposes more than for scientific purposes, the Commission is of opinion that the final decision about General provisions may be safely delayed up to

the very end of the work on the Ciril Code. Che general Provisions of a Code are not general principles from which every subsequent rule is de ducted. Mr. Saleilles in The Treface of his Translation, explains how the german Code was compiled and says: " It was agrowd " that the Jeneral Part would not consist " of rules in abstracto and juridical a definitions, but of rules in encrets concerning « the several justidical matters which could a not take place in the special parts.". Which I envider the safest, some Soveral Grovision might be enacted together with the Obligations, but it must be well understood that these Several provisions will be subject to numerous additions and also to some alterations when the Code is published as a whole.

Distribution of Draft Siamere Civil Code...

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Division I. - Exercise of rights - Self defenu. Self help

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TIFLE II. - Unjust enrichment.

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- Chanter 3. Lean of money

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PITTLE VIL. (Business canagement.

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TITLE XII. Compromise.

TITLE XIII. Arbitration (Tambling and Betting

TITLE XIV. Vagor. Lettery Cument alcount

TITLE XV. Accordation. Partnership; Company.

TITLE XVI. Innurance Mociation

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Chapter 4. See damage. Average.

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Didution of the German Civil Code

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al anociations

. 8 foundations

c) printing persons of with the bodies

Section II. Things

kotion II . - Terristic acts

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i. Prestation

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1 .- Bilateral or unprocal contracts.

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Acam III. mortgage of immercates. Rents on land.

ketter II - Pledge of moreather and incorporal inquity.

Book IY Family

Section I. - marriage

section II . - Porental power

Section III. - Grandianship

Book I mheritance and wills.

di codes

So Outhe 1009

Lo Gonverneur Gineral de & Indochine & C Momeicar" PADOUX . Com a Géneral, conseilles

in the state of th

Mon cher Consul General.

A in date do 22 Sentembre dermier, vous avez exprimé le désir de raceveir quelques exemplaires des codes Looking, publies en 1908 à Hanol sous les suspices du Go vernament Général de l'Indochine.

J'ai l'honneis de voir serseser sous ca pli, trois excaplaires du traveil de M. Sallé.

Le Résident Supérieur au Lack m's rendu compte que cet ouvrage aveit été-accueilli avec une favour marquée par les populations du Lacs français.

Vouillez agréer, Mon pher Consul Général, l'assurence de mus sentiments les meilleurs./.

monnieur G. Gonverneur ciciural.

Vons avej vien strien trong trong demands inc pair parrecier trong excuplance, des Codes Caotiens, moties en 1908 à Hans une les auspices du Gouverne ment General de l'Ando-Alino.

Il m'enjerent de vous accuser restriction de l'eneri de cett interessant publication de l'entre de la lois faut la Communion de Codification de Lois hausies de proper de Cenir grand conque au .

Cours de les Gravaux.

General, l'expression de mes sentimens les plus devries

mur G & sel Indo-Ohing

บรกภูกิลาเบร

บระมรวงศ์นูตรรภา

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bear In : Parant, I want think I am complete to entiry the standing of a love. fearling bring, the conting wants:

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for the even firm about.

Dini Shrun

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OBLICATIONS.

11.00

portion of the Gode, to remember that here
we have only general provisions of Law and
that these may be somewhat modified when to
come to deal with Specific Titles. This
was pointed out to memby M. Fadoux in a discussion I had with him on one point to which
I shall refer later on. As far, too, as I
am concerned, this is a criticism from one
trained to the English law and without any
knowledge of the Codes of the Continent of
Europe's

As fer as the form goes it is not necessary to make any remarks: it is easy of reference and simple.

several places where I have quitted to notice defects when I looked over the draft from that point of view. And this is a very important matter: I suppose the official Siamese text will be made from the English version. And in view of the future development of Siam and the consequences that result to her from these Codes, it is essential that the English should be as decurate as possible before it is used for translation or issued to the world at large. I would again venture to suggest that this will best be done by obtaining the assistance of some trained English scholar (e.g. a member of

with a lawyer who can see that it is not tampering with any agreed principles of Law. I do not know if the illustrations are to be incorporated in the Official text: I am inclined to think it will be advisable to do so. But they must then be very carefully scrutinised. For instance, the illustrations given of Trau* and "mistake" require careful consideration. Sects: 52 &53.

I can well understand that in both cases the Courts would refuse to give any redress to the purchaser of the horse in the one instance and of the bowl in the other. The doctrine of Cavast Emptor need not be pushed too far for this purpose.

from a perusal of this draft, and I will name them as far as possible in the order in which they occur in the draft.

- trine of Consideration. Apparently a nudum pactum is actionable and may constitute a contract, even though not under seal. This surely is a matter for careful consideration. And even the definition of "contract" says it is an agreement "intended to create" an obligation: surely it does create one.
- 2. I em afraid that the element of "intention" looms very large in the rules for construction of contracts: too much stress is laid on it and too little on the

words used. This will open the door to much littledity for the Courts. And here I should mention a special rule (seat. 12) where the last clause of repugnant clauses is to be taken as the real one. It may well be note that the parties in making a contract know their sinde test as the commencement of the negotiations, unlike a teststor, whose wind may alter in his intentions.

- is relead on sect. 38. I see no reason why an offer should not be revoked before acceptance by the offeree: i.e. refore his acceptance has left him on route for the offerer. And I do not find any reference to the revocation of an acceptance, which might not unreasonably he allowed up to the time is has reached the offerer.
- refered to by a showe, seems to include mistakes of law and of fact. If so the idea that every one is presumed to know the law has no further application. I have already queried the illustration given here: that is a genuine mistake of fact, common to both parties, with no fraud on either side and where the purchaser had as much opportunity of finding out the genuineness of the bowl as the seller. Is there to be a general warranty on the sale of goods? I fear he that will put an enormous tax on the sellers.

in this country. Of course, where there is froud, (and I note that there is no definition of this), another element is at once introduced. While here, I might mention the matter of fraud: the illustration given might easily be extended to what we know as an "suctioneer's puff". Must there not be some duty, of disclosure arising from the relations between, the parties?

- of "duress" is very wide, but it does not cover what we know as "undue influence". This element should not be overlooked, more especially in a country where the characters of the people are such that they are very liable to this form of trickery.
- 6. And there is no clause dealing with misrepresentation; and the rights of parties therefrom. I do not know if it is intended to include all such cases under "fraud": if so the want of definition is again seen.
- observed that considerable extension is here given to their liability. If a minor is not capable of contracting, except with the assistance of his lawful representative, how is this person to come into existence? is it intended that he should be the guardian appointed by the Court? if so it should be stated. If not, how is a third party to ascertain who is the lawful representative,

or lifthe person put farent caravab really in col.

- the grantful acts of their employees is appropriate reservably limited. It would be practically importable to get a judgment against the firm like the Bornes Co. for a negligent act of the steeremen of one of their launches. And a judgment against the steeremen would of course be valueless.
- contract in the absence of special agreementis that of the debtor's domicile. I do not
 quite understand the word 'domicile' here;
 but should not the general rule be that it
 is for the dettor to seek out the creditor?
 I have already had a talk with M. Fadoux
 on this point and therefore put it in here
 formally.
- Courts are to order Specific Performance of a contract whenever possible. This is apparently so, even there deseges are ample compensation. This is pushing the doctrine a long way and there are many mercantile contracts where such an order might be made but a Court would find it very hard to carry it out.

71. The question of prescription, or as I should prefer to call it "limitation "of actions" appears here throughout. It

is not clear if it is intended merely to

- more machinery. It would seem to be implied in the rule that creditors have to seek their debtors. If the debtors had to seek the creditors, then tender would be practically enough.
 - 13. Damages. I do not think the definition of these in Sect. 318 is enough. And there seems to be a tendency to limit them in the draft. The doctrine of Farnestmoney, where this has no reference to the amount of importance of the contract seems to me to limit them considerably, and to open the door to much hardship. This also applies to compensation for Forgful acts? limited to injury actually caused, which is haruly to be distinguished from that awarded in the case of the compensation for breach of a contract. There surely ought to be some difference in the measure of damages awarded. There are some points which I should like to mention, though they hardly seem to involve questions of principles- whom he is responsible
 - a. The word "prestation" is a new one and so also is the phrese "in mora". But I cannot at the time suggest any single word to include all that is meant in each case.

- to have been left out. This might be included in "public policy".
- c. I see the phrase "grossly negligent"
 in mod in sect. 52. a lt is intended that "
 there shall be degrees of negligenee?
- advantage to the dettor. Why should be neve it? A creditor sells a right subject to litigation for many reasons and the third parties buys it considerably below its real value: Why should the original obligation be thereby reduced?
 - e. In sects. 221 & 222 the words for thefore ought to be dec. Otherwise performance might be limited to one day only.
- f. In sect. 248 he words "as far as "possible" seem to be wrong. They ought to be "if necessary".
- g. I think the interest mentioned in Sect. 264 must be that provided by sect. 263 (1) and not 263 (2).
- h. In Sect. 324 the deltor ought not to be relieved if the delay is the formal cone for whom he is respect to

(Signed, skilmer lugger.

November 1st. 1808.

Winistry of Justic

be gind to know wi

18th. December 1959.

MEMORANDUM.

Mr. Padoux, Legislative Adviser

H. R. H. Prince Rajburi, Minister of Justice.

I have just finished the report on the Proposed Code of Penal Procedure, the copy of which I beg to enclose.

Would Y.R.H. kindly let me know if I shall have that report printed at once with the duplicator, or if you would like to go through it first and see whether some parts in it ought to be omitted or modified.

Justice, Interior and Local Government, are directly concerned in the matter. I have already suggested that the report be submitted to these three Departments and be discussed by a mixed Commission. Now Y.R.H. may think advisable that the report be first examined by the various competent persons in the Ministry of Justice, and that it be submitted to the other Ministries only after the Ministry of Justice has come to some canclusion on the several points raised in it. I would be glad to knew what is the view of Y.R.H.

In case the repert were to be printed now, how many cepies of it would be necessary ?



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Translation of article in Court Bess of 11th. January 1910 by Prince Batteri.

The Law concerning seizure of paidy grops.

had not yet paid the rent to B. A lost an action to C. The Court orders the property to be seized and given to C. The bailiff seizes the paddy which had been planted by A. B. files a motion to prevent the bailiff outling the paddy before the rent has been paid. The Court lecided that the bailiff might out the crop, and that B must bring a separate action for the rent.

We feel sure that this decision is wrong. And with a view to substituting our opinion, we will trace the his tory of law relating to the seizure of property. Before the new system the loss of a civil action could never render the property of the losing party liable to seizure, but in the case of a criminal action where the offence was serious, the property of the guilty party was seized by the Crown. In civil actions between priwate persons the Court had neither the power nor the machinery to seize and sell the property of the one party to compensate the other. The old procedure was to detain the debtors person, this was called detention for debt. And so if the case stated above had taken place under the old procedure, the Court would have had no power to allow the bailiff to cut the paddy.

Inder the new system, provision has been made for the seizure of property, and for a sale by public auction, but it is quite clear that only the property of the losing party is liable to seizure, and not the property of a third party such as B in the case above. Accordingly we must consider whether the paddy was the property of A cr B. There

There is a maxim "quid quid plantatur solo, solo cedit." 'The solum' belongs to B, therefore the paddy belongs to B also. The oreditor of A has no right to seize the paddy crop which is planted in the land of B. The creditor of A is in the same position as a receiver of A's property. He can exercise no greater right than A 1. e. A can cut the paddy but is liable for the rent to B. Instead of A. Therefore if C. acizos the paddy he must pay the rent to B. This is Siamese Law. English Law reaches the same conclusion but is based on different grounds (see Woodrentons Encyclopedia vol. VI page 426 and Woodfull Landlord and Tenant page 509 and 14 and 15 Victoria C. 25 Section 2.) The principles of Siameso Law which we have discussed above apply only to growing paddy which is regarded as part of the land and belonge to the owner of the land, but once the gaddy has been cut the main "quid quid plantatur solo solo cedit" is no longer in point, because the paidy is no longer part of the soil. Then the question arises whether C can seize the cut paddy, and the answer involve different considerations of law to these treated above.

whether it was cut or not, but now the new procedure and the new regulations for the collection of the land tax are in force. And so we must consider the question in the light of this fresh legislation.

The tax was levied on him, not on the land, but after the Land Tax Act R.S. 119 (Royal Gazette page 450) the landlord was made liable for the tax. In default of payment the bailiff of the Court was empowered to seize the land and sell it by public auction, and thus the tax became levied on the land not on the individual. It is quite reasonable to give a landlord greater protection against the loss of the benefit

of his property.

Honce in our opinion it is time for our law should be assimilated to the law of other countries in this respect, and a landlord should be entitled to selze in satisfaction of his rent paddy grops which have been cut but not removed from the land.

- Example 1. A rents land from B. The raddy crop is still standing, if a creditor of A solzes the land in execution, such creditor is liable for the rent instead of A.
- Example 2. A rents land from B. The padd, crop
 has been cut, but not removed from the
 field, the creditor of A must give B sufficient paddy to cover the rent.
- has been out and agreed to be sold to a said. party but such 3rd. has not removed it from the field. B is entitled to seize sufficient paddy to satisfy his rent.
- Example 4. A rents land from B. The paidy crop
 has been cut abl sold to C who has removed
 it. B is not entitled to seize any paddy
 in satisfaction of his rent.

The four preceding examples are not contrary to Siameso LAW and custom in force before the new system. The question then arises whether the new procedure makes any change in the law concerning vizure of land.

The answer is that the new vetom was never intended to affect the law concerning lad and thus the law at the present time is exactly the same as in the four examples we have diven.

If the law is not the same as in the four examples some very urious results would ensure.

sive action which A arranges to less. C chiers, seizes all the paddy and secretly hands over the proceeds to A. B gets nothing but loses his land as the bailiff seizes and sells it by public auction to cover the land tax. This would mean that when a landlord to this land he runs the risks and losing it without a chance of avoiding the loss because the law makes fraud easy for the Tenant, and leaves the landlord helpless to prevent it.

To sum the whole matter up, the law concerning the seizure of property on land should practically follow English Law.

Our remarks above apply only to paddy crops, not to cattle and implements of agriculture, but in point of fact Siamese custom permits the landlord to seize cattle and implements of agriculture but nothing else in default of rent. Formerly English Law allowed the landlord to seize many more things than these, but now things liable to seizure have been yery much limited. According to English Law lodging house keepers can seize the property of their Tenants in default of rent, but we have never heard in Siam of lodging house keepers doing this on their own enitiative, only owners of land and gardens, but the Court can extend the Law in this direction.

ท้องรองเสนานที่ กระทรวงยุทิตรรม วันที่ 32 - 26 1510 วัตน ใกลินทรศก ๑๒

Dear In . Padoux

Can you les, me Lave a short- Menso. by reform on the Subject - 7m of the to me about- fester day. Inst. proi me a fit of what parride a on the mealta is.

James suicered?

February 22 nd 1910.

Memorandumi

Mr. Padouse, Legisladive adviser to to Wis Highness Frince Chaicon, Deputy Minister of Justice.

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3: lo the advisability of submitting the draft emering commercial entracts to the principal representatives of the

Mercauticle Community in Bougkok.

4º lo The appointment of a mixed.

commission including Liamore Lawyers

for the purpose of going through the text

prepared by myself and my assistants

amending it and altering whatever might

be formed to be increasilent with the Siamon

last and practice.

have submitted in the 18th december 1909 a long report dealing with the various points on which the present criminal procedure might eventually be modified. I have proposed that the peparts be submitted to a sub-committee including representatives of the several tricistics concerned in the matter. (c. e. yestice; Interior; docal Covernment.)

the work of the commission unless a decision is taken on these matters. To long as no definite sheme is adopted for the Civil and Commercial lode, we feel unable to draw up a number of general provisions since we do not know whether these provisions rare to be pripared for a role on biligating only or for a longiste int. There are also municipalised the European advisors. thinking they could not properly make proposals before having consulted with siamese lawyers.

reparing a detailed draft, unless we Know

under which lines the Government wishes criminal Procedure to be conducted.

Super the whited to a leave of six months during the currency of their agreement. Tince the total work was auticipated to last not more than 4 years on leyears and a half the kimistry of Justice was willing to let them go in leave say in april 1911. I thought that by that time the lode of himinal Procedure and the Part of the live loke concerning obligations would be ready. Furt if levision on the above men - tioned points is delayed, I fear that none of these Codes may be submitted to His hajesty in 1911.

MEHORANDUK -

ir Padoux, Lagialative Adviser,

His Highness Prince Charcon. Deputy minister of Justice.

The work of the codification occasion has been progressing satisfactorily during the last three months. Nost of the specific contracts are now ready. The part concerning Bills of Exchange, cheques and Promissory notes, which is one of great importance shall be finished in a few days.

In order that the work be continued it is necessary that the coverment shall take a decision on several preliminary points. These points are mentioned in the memoranda which I submitted to the Ministry of Justice on the 20th July 1909, Isth November 1908 and 6th Junuary 1910. They principally refer:

- Io To the general structure and distribution of the Civil and Corporatal Gods.
- 3° To the advisability of publishing the Civil and Commercial Code in two parts, at about two years interval, or publishing it as a whole.
- on tile occumently in Bengkok.
 - Lawyers for the purpose of going through the text prepared by myself and my assistants, amending it, and altering whatever might be found to be inconsistent with the Siamese Law and practice.

Decommer 1909 a long report dealing with the various points on which the recent commings procedure might eventually be modified. I have proposed that the report be submitted to a sub committee including.



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MEMORANDUM

March 2 . 1910

Prince Charoon, Deputy-Minister of Justice to

Monsieur Padoux, Legislative Adviser.

In reply to your Memorandum of the 22nd February, pointing out to me that, in order that the work of
the Code Commission should be continued, it is necessary
that a decision on several preliminary points which have
been set out in the Memoranda submitted to the
hinistry of Justice on the 20th July 1909, 13th November
1909, and 6th January 1910 should be taken, I beg to
inform you that I have carefully read, and thought
over these points.

Although quite aware that the points raised are of importance and that they are properly matters that should have the sanction of H.R.H. the Minister of Justice, but owing to the illness of the Prince, who has been advised by the Doctor to rest for 6 months, I have taken it upon my own responsibility to make a decision on them, in order not to cause delay or waste of time in the work of the Commission.

I will proceed to answer each point raised in your Memorandum under reply.



- 1) As to the general structure and distribution of the Civil and Commercial Code :- I agree with the proposal of the Commission as set out in your Momorandum of the 13th November 1909.
- 2) Az to the advisability of publishing the Civil & Commercial Code in two parts, at about two years interval or publishing it as a whole.:- I am of opinion that it would be in the end to the advantage of H.M.'s Government to publish it as a whole for the fellwing reasons:
 - a) It is the best from the Legal point of view which is also the opinion of yourself;
 - b) It will be more uniform;
 - c) and for reason, set out below, in paragraph 4 of this elemorandum.

As regards the delay in publication of part of the Civil Code that this decision would enteil it would be a matter of 2 or 3 years only. It simply means instead of having part of the Code applied to certain of the foreign subjects under fecent Treaties, we defer assuming this right till the whole is finished and applied together. I prefer the delay of a few years to applying only part of Code at different periods, for the reason that it will cause less confusion and misunderstandings on the part of the judges who have to apply the law. It will also be preferable for the persons who come under the law, as instead of being uncertain as to what subject has been codified and what has not, the whole of the Covil and Commercial law will be applied at the.



the same time.

the drafts concerning commercial contracts to the principal representatives of the mercantile community in Bangkok, I am of opinion that it would not be advisable, as it is difficult to draw a line as to whom the drafts should be submitted and to what class of the commercial community it should be limited. If the draft has been submitted and is not then adopted afterwards, it may become a grievance on the part of the persons who approved of it. I would suggest that the proposal you made to me, to ask information of different classes of the mercantile community in a private manner as regards trade practices, would be preferable.

commission including Siemese Lawyers, I am afraid that for the moment, I am unable to decide on this point, owing to the difficulty of choosing them. They will have of course necessaries to be those who understand English, and fortunately for the moment, these have more that they can do. They are overwhelmed with work, owing to the sudden change and new procedure, involved by the recent Treaty with Great Britain. Time must be given them to familiarise themselves with the new procedure and also to instruct others who do not understand any European language. The new state of affairs has been too recent to withdraw them from the Courts. Hence my choice of publishing the Code as a whole instead instead of in two parts.



It is also to avoid asking these to do work more than they can possibly do with any degree of efficiency and at the same time to avoid waste of time on the part of the Code Commission.

regret that for the moment, I cannot give any decision not having seen the report dated the 18th December which you submitted. As soon as I have studied it I will be able to give you a decision. I have hastened to indicate the lines on which the Civil and Commercial Code should be drafted, in order that no time need be wasted by you and your assistants, as you say that it has now become impossible to continue the work unless a decision is taken on the scheme to be adopted for the Civil and Commercial Code.

As regards the six months leave which will be due to Messrs Moncharville, Rivière & Guyon, I have no objection to their taking them in April 1911. The period of their absence can be employed in reviewing their draft, so far has been prepared, by those whose opinion would be useful in taking.

Charlon

Donr Mr. Graham,

The Code Commission are at present entered in drafting Provisions concerning partnerahips and Companies. It would help us very much if we could obtain copies of the charters and articles of amociations of the last companies formed in Bangtok, for instance:

The Sin Commorcial Bank

The Monar Motor Boat. Co.

The Siam Transport. Co.

The Slamese Transays. Co.

The Srirachs Co

The Meklong Railway Co.

The Chine Siamese Mail Steamship Co.

The Siam Stone Works Co.

The Bangkok City Bank

Printed copies of these documents are usually deposited at the delighty of Agriculture. Is it possible to get them? I would like better to have the English test, but the Siamese text might do.

Apologising for the trouble, I remain, Door Mr. Graham.

very truly yours.

MEMORANDUM -

Mr. Padoux, Legislative adviser to

His Royal Highmees Prince Rajburi,

The Code Cormission has now finished that part of the traft of vii and commercial Gode which deals with Partnerships and Companies.

The draft provisions are partly taken out of a draft act titled "The Law of Siamose Partnerships and Companies" which was prepared by the advisors of the Government in the year II9.

In this draft, there is a section 3 which runs as follows:

"Section 33. - NowCompany is allowed to purchase in Siam lands,

"houses or other buildings, otherwise than for the purpose of

"managing, conducting and carrying on the business of the Com
"pany. No lands, houses or other buildings may be purchased so as

"to be in any manner made instrumental for the purposes of trade

"or speculation. When a Company purchases any property, consis
"ting in lands, houses or other buildings, notice in writing the
"reof is to be given to the Minister of Finance within three."

"months to the purchase."

The said provision has been incorporated in our draft where it reads:

*Section IIO. - No limited company is allowed to acquire in

Siam lands, houses or other immovemble properties etherwise than

for the purpose of managing, conducting and carrying on the bu
siness of the company. No lands, houses or other buildings may

be acquired or owned for the purposes of to de or speculation.

When a company acquires any property, consisting in lands, houses

or other immovemble properties, notice in writing thereof must

be given to the Minister of Finance within three months from the a

"quisition."

The original provision was probably inserted in the draft act with a view of limiting the extension of mortusin in Siam, and also of preventing foreigners from abquiring, through companies formed by them under signess law, immovemble property which the treaties did not allow them to acquire personally.

French asiatic subjects and British subjects have now the right to possess land. The question of whether companies shall be allowed to own land or not is not any more connected with foreign policy. It is a matter of internal policy, and the rule to be adopted shall be the same whether the shareholders company are size as subjects a family notice.

But the first notive (question of mortmain) is still worth consideration.

The Gode Commission have therefore examined the question and they have come to the conclusion that if the principle laid down in the original section 55 is to be maintained, some alterations ought to be introduced in its present wording.

I

The first point is to clearly define which acquisitions of land are permitted by law, which are forbidde.

The draft allows a company to acquire the lands or buildings which are necessary for the nurvose of managing, conducting and corrected on the business of the company: But no land may be purchased so as to be in any manner made instrumental for the purposes of trade or secondation.

and buildings which are necessary for its offices, landing places and godowns. A Banking company may own a building for its offices and its director, etc. In such cases, the land is owned for the purpose of managing the business of the Company.

on the contrary, a company cannot acquire land in order to resell it afterwards, because it would be land speculation, and land cannot be purchased for the purposes of speculation. A company like the "Siam Canals and Irrigation Co" could not be formed under Section 53 of the original draft Law on Companies. *

But take for instance a Rubber Company. For the purpose of conducting its business, such company must acquire land and plant it. But plantation of rubber trees may be considered as making the land "instrumental for the purposes of trade".

Shall we therefore geneider that a Rubber Co or any other similar Go bannot be formed in Siam?

If the words purposes of tradb or speculation aggto be construed as simply meaning "trade in land", or "buying land in order to resell it", then a Rubber Co could be authorized. But" what about the principle of restricting mortmain? The general idea about mortmain is to prevent juristic persons to acquire land, because juristic persons always keep the land they acquire. and since their duration exceeds the duration of the life of soveral successive human generations, the land they own is Practically withdrawn from economical and commercial circulation. Now, if the words "purposes of trade or speculation" are construct as meaning "buying and selling land", then the companies which propose to acquire land in order to resell it, that is to say companies which do not propose to keep mortmain land, shall not be allowed, but companies who propose to acquire land in order to keep it and work on it, that is to say who propose as form mortmain land, shall be allowed. If the words "purposes of trade and speculation" are construed in a wider way, then a Company shall not be allowed to carry on any trade or husiness connected with Land.

It seems there-fore that the Covernment ought to consider the question whether empenies formed under the Siamese law shall be allowed to own land or not, and, in case they should

not be allowed, to decide which exceptions may be admitted.

Porsonally, I am not in favour of restricting the right of ownership of commandes. The question of mortmain has never had any importance in Europe except in connection with the Roman Catholic Church and with convents, monasteries and other religious congregations. But watts, churches and religious congregations have nothing to do with compenies. If their right of owning land must be restricted, that is to be decided in other laws or in other parts of the Code. Meanwhile, with regard to the Roman Catholic Church in Siam, the question has been settled by the Royal Decree dated 27th august 1909.

are nios everywhere allowed to peasess land. They may be constituted to special taxes on the land they own, but this is a revenue question, not a legal question. As a general rule, a company formed as a comporate body can acquire land in the same way as a private person. It is worth noting that in the draft of the year IIP no restriction was imposed upon ordinary partnerships or limited partnerships as to the ownership of land.

Still, limited artnerships may be constituted in such a way that they may have a quasi perpetual life, like companies.

panies must not be allowed to possess land in Siam, I think that the limitation must be made a very strict one.

I would propose to foroid companies to acquire land for any purpose whatever, except such immoved a properties as may so necessary for their offices, stores, factories, godowns, or other places where they carry on their trade or industry. I would forbid companies to acquire land for the purposes of investment, cultivation, plantation, building speculation, etc. If not, if the right of companies to acquire land is not strictly limited, the distinction between acquisitions allowed and acquisitions forbidden shall be extremely difficult to draw.

A number of dates shall arise, Many companies small be amountain whether they are lawful implomment or not, and they will find themselves in a very unantiminatory position.

but a strict limitation shall provent a great number of companies from being formed or from carrying on properly their business. For instance if a company starts a business of rice milling, such company may buy the land which is necessary for erecting the mill and for the present business of the company, but although the do forcese that in another five or ten years they shall need more space, they would not be allowed to purchase from the beginning extra land for further developments.

Besides, Company would be allowed to bring new areas into cultivation by clearing waste land, digging canals, or turning jungle into plantation. No Company would be allowed to build however or markets in towns, etc. The limitation may restrict the companical development of Siam and the introduction of foreign capital.

may acquire large tracts of land in Siam is to ask for a concession from the deverment, and that the deverment is always at liberty to refuse the whole or part of the area applied for. It is nightly improbable that a company may acquire considerable cetates from private individuals in Siam.

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mediate IS of the Podrum of And William

Assuming that the Government be in favour of limiting the right of corporates to own land, some provisions ought to be enacted to decide how the limitation shall be enforced.

If no provision is inserted in the law to that effect, the same question will be raised as was raised in connection with erticle 4 of the 1857 treaty with England.

The old treaty forbede english subjects to acquire land outside the 24 hours limits. Practically, a number of British subjects in the North were landowners "de facto". Some persons

conversed the aminion that when a British subject had purchased land contrary to law, any interested person could claim cancellation of such contract, Some other lawyers were of opinion that the provision in the Treaty was made for the sake of the Siamese Government only, and that such Government alone could enter an action for cancellation. The question was brought before the International Appeal Court and the Bangkok Appeal Court but it was not fully decided. Both Courts only gave judgment that a person who had purchased or acquired land contrary to the treaty had no title on which he could bring an action in court.

of land, the question cannot be left undecided. Suppose for instance a Company buys land and starts a rubbor plantation believing in good faith that such acquisition is not contrary to law. Is it admissible that after five or low years have elapsed the seller of the land or the Government may come in and ask for cancellation of the sale and for return of the land to the seller? If the value of the land has increased twenty times, what about that increase? Who shall benefit or it? Business of such importance questions cannot be left uncertain and undecided.

A similar point was raised in connection with the lands owned by the Poman Catholic church. It is decided as follows by article 16 of the Decree of the 97th august 1909:

visions of art. IS.IS.I4 & IR of the present decree shall be null and wold. This mullity may be pronounced at any time on application of the Government, by the competent court, which shall order the sale of the land by public auction. The proceeds of the sale less deduction for costs and expenses, shall be paid to the Mission concerned.

I would advise the Government, 4 ... e right of Companies to hold land is contribted, to insort a provision of the same

ICHMORANINUL -

Mr. Padoux, Legislative advisor

His Royal Highmess Prince Rajburi, Minister of Justice.

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But a strict limitation shall prevent a great number of companies from being formed or from carrying on properly their business. For instance if a Company starts a business of rice ich company may buy the land which is necessary for milling. erecting wire '11 and for the present business of the company, but although t 30 foresee that in another five or ten years they shall need more space, they would not be allowed to purchase from the beginning extra land for further developments. Besides, Company would be allowed to bring new areas into oultivation by clearing waste land, disging canals, or turning jungle into plantation. No company would be allowed to build howses or markets in towns, etc. The limitation may restrict the economical development of Sian and the introduction of foreign capital.

I would point here that the only way in which a company may acquire large tracts of land in Siem is to ask for a concession from the Government, and that the Government is always at liberty to refuse the whole or part of the area applied for. It is highly improbable that a company may acquire considerable estates from private individuals in Siem.

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Assuming that the Government be in favour of limiting the right of companies to own land, some provisions ought to be enacted to decide how the limitation shall be enforced.

If no provision is inserted in the law to that effect, the same question Will be raised as was raised in connection with article 4 of the 1875 treaty with England.

The old treaty forbade english subjects to acquire land outside the 24 hours limits. Pra tically, a number of British subjects in the North were landowners "de facto". Some persons

land contrary to law, any interested person could claim cancellation of such contract. Some other lawyers were of opinion that the provision in the Treaty was made for the sake of the Siamese Covernment only, and that such Covernment alone could enter an action for cancellation. The question was brought before the International Appeal Court and the Bangkok Appeal Court but it was not fully decided. Both Courts only gave judgment that a person who had purchased or acquired land contrary to the treaty had no title on which he could bring an action in Court.

If companies are placed under restrictions as to ownership of land, the question cannot be left undecided. Suppose for instance a Company buys land and Starts a rubber plantation believing in good faith that such acquicition is not contrary to law. Is it admissible that after five or less years have elapsed the seller of the land or the Government may come in and ask for cancellation of the sale and for return of the land to the seller? If the value of the land has increased twenty times, what about that increase? Who shall benefit of it? Business of such importance questions carnot be left uncertain and undecided.

A similation of was reject in connection with the lands owned by the Roman Catholia church. It is decided as follows by article I6 of the Degree of the 27th august 1909:

visions of ant. IS,IS,I4 & IS of the present decree shall be mull and word. This mullity may be pronounced at any time on application of the Government, by the competent Court, which shall order the sale of the land by public auction. The proceeds of the sale less deduction for costs and expenses, shall be paid to the Mission concerned.

I would advise the Government, if the right of Companies to hold land is gostricted, to insert a prevision of the same

Вахокок, 26/5. 1960

der ter ladoux I have been through the fills of Erchange aux and beg to give you enclosed my views as to some points that to my secuion To not seem to be quite clear & Explicix Jours faithfully

welly

Thereations of m. hochi, humages hown conting bank. perform 14.) It will be mentioned that whenever an allower is attracted to a bill, the first indovernent on the allinge is party withen on the bill itself - party on the allough to avoid fand) (8) is the date indecessary to make the individual 58.) propost i must this particle be shawn up by in public noting or will it be sufficient for the willer of the Rile to menes write this makes him to. To my opinion the beller will get from the P.G. out a receipt for a registered letter surless the contents of the attender to the P.G. - while could not very well be have. 63.) the date of the prosent amost begiven in Cases where seathin 62 comes into applyance it might therefore be abled: or the lek of refusel q acceptance" (2) wight add the reason why the thice is not eccepter. 70, might be nother: Kelolder of en unregelt hill of Exclye etc. 14.) If is not clearly wheat whether the transchar fither whise acceptance before the acceptor for house comes in and if it has to be protexted in hancase. 177:) it might be asked .. and indication that it is an acceptance for homos.

belowline 2 at 80) to present the dishonored bill for property to seek 18 the pending of the protest on the day for simply send the wohise of protect and of whist the estice be in the want of the were to before the Rell is presented to the acceptor for torroe? If so the line allowance for proberling and precenting to the acceptor for holor will not be inflicitude uch (N.) same rements at to sech. 60. 115.) and: impair bill of excluse. 126.) The holder would have the fact of the just Level for non payment etc. Hataprofest has to be were out in a cake where a bill is paint by a poper for Promisory Holes: Loss pertion 28 be applied to Pina led. 185.) . I the overe of a crossed close went wake payment to a bank only " foer this ricen that the drawer can my much pay in cuch a crossed clique to attack tot can The hank's account only be credited in the crawce's books?

Observations of Mr. Kock, Manager Siam Commercial Bank.

-:-:-:-

26th. May 1910.

- Section 12. It might be mentioned that
 whenever an allonge is attached
 to a bill, the first indorsement
 on the ællonge is partly written
 on the bill itself and partly on
 the allonge (to avoid fraud).
- Section 34. Is the date necessary to make the indorsement valid?
- Section 58. "Protest". Must this protest
 be drawn up by a public notary or
 will it be sufficient for the holder
 of the bill to merely write this
 notice himself?
- Section 60. To my opinion the holder will get from the Post Office only a receipt for a registered letter unless the contents of the letter are shown to the Post Office, which could not very well be done.
- section 63. "The date of the protest" cannot be given in cases where section
 82 comes into appliance; it might
 therefore be added: "or the date

of refusal of acceptance".

Section 82. Might add the reason why the bill is not accepted?

Section 70. Might be added: The holder of an 'Unaccepted' Bill of Exchange etc

Section 74. It is not clearly stated

whether the drawes has first to

refuse acceptance before the accep
tor for homour comes in and if it

has to be protested in that case.

Section 77. It might be added: and indication that it is an acceptance
for honour.

Section 80. Subsection 2.

3

Bill for payment.

Section 80. Subsection 3.

Proper limit of time means according to section 58 the sending of the protest on the day following the day of presentation. It is sufficient to simply send the notice of protest and then present the bill to the acceptor for honour or must the notice be in the hands of the drawes before the bill is presented to the acceptor for honour? If so the time allowance for are



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May 2016. 1910.

Memoran Aus.

Mr. Padoux, Logislative Advisor

to

His Royal Highness Prince Rajburi, Minister of Justice.

On the 18th. of Documber 1808 I have submitted to Your Royal Highness a memorantum concerning the Codification of Griminal Procedure.

In that memorandum several important points about Procedure were examined which, in my opinion, ought to be decided by the Government before the Code Commission may start compiling a proper draft.

If the Winistry of Justice is anxious that something be done for the Oriminal Procedure Code before the Commission goes on leave that is to say before April or May 1911, the question raised in the said memorantum ought to be discussed without delay.

June 100 truly 28 th 1910

Dear hu. hoch

I thank you have sent atus the inap- act on shell

Carefully exaculted by the Code Commission. I will cold you more in time which allocations are me within the prover to make which allocations are me within the prover prover to much when thinks.

Truly yours.

5 Julie 1000 1710

79/2016



เหล้งเกตุทูมาราชทุกวันนี้ไม่มารับราชการทามเวลา คือเช้า ๔โมง ทรง ตั้งแต่วันที่ได้รับคำสั่งนี้ต่อไป เห็บกราชการมารับราชการตาม เวลาออ่าให้ฉ้าได้เปนอันชาต และเห็นวันาแพนกทุกแพนก แลอชิบดี สาลทุกศาลในกรุงเพพฯ มีรายงานยอกชื่อน้ำราชการชนสัญญายัตร์ที่มา รับราชฎารส่งรองเสนายดีไท้เต็กายในเช้า ๕ ไมง

กระทรวงยุคิธรรม

วันที่ ๔ มีถุนายนรัตนโกสินครศัก ประ

TONW.

n: 1. /579

Le Prince Chavaon agant remarque august hus
même que brancoup de fontionnaises du hunertée
n'étaient par anive's aux Palrie de justice en
tengs roulu - c'est à dire à dir hemes du matin,
recommande à très le fonctionnaire du lluisseir
el 6 justice d'étie plus pomotirels derissavant,
et norme à très le chefs de service et Présidents
de come à Bangkok de noter à nomes des
fonctionnaires en claid et d'en œuvryer la leste
au Ministre à onze heures du matin

Rivoristère de la pertice 4 juin 129.

(Ligue' ? Theren).

Sangkok, June 7th 1910.

Dear Mr. Larson,

The Code Commission are at present considering the part of the Civil Code concerning " Associations ", that is to say sociaties formed for charitable, literary, scientific sports or other such purposes.

sions of the Secret Society Act of the year 1897.

visions are really put into force, that is to say if the various clubs and other societies of Bangkok have applied for registration by sending a copy of their regulations, list of members, etc. (section 3); if they give 34 hours notice of their meetings to the registering officer (section II); etc.

In case the provisions of the Act are regularly complied with, I would like very much to have a copy of the statutes deposited by the most important of such societies.

the Minister of Justice the whole question of the system to be adopted for the registration of societies before any definite proposals be made by the Gode Commission. I suppose that my notes to the Minister will be communicated to the Local Government.

Truly yours,



ต้นฉบับไม่มีหน้านี้ NO THIS PAGE IN ORIGINAL

June 10th. 1910

Dear Prince Sithiporn,

present engaged in the compilation of that part of the divil Gode which shall deal with Companies would like to consult and compare as many as possible of the Royal Charters and articles of association of the Companies formed in Bangkok under Siamese law. Could you kindly help me in getting some of them? I know that the Charters were prepared by the General Advisor. Perhaps you may find some in your effice.

Thanking you in anticipation, I remain, dear Prince,

Sincerely yours

Bangkok, June 10th.1910

My dear M. Padoux,

The registration sections of the Secret Society law are nominally in force but there are only four societies registered and of those one, the Chinese Japanese Thamber of Commerce exists only in name there being now no membership, no directorate and no office. Of the other three two are benevolent societies and the third is a social club. This last also appears to be in a very somnotent condition and I doubt if it has now any actual existence. The sections of the law are not really enforced because it has been the policy of Government to discourage registration.

There are four applications from societies pending now, some of which have been pending a very long time.

The registered societies that have an active existence report their meetings etc. I will let you have a copy of the statutes of any one of these eight Societies if you will let me know which you want. The hames are as follows:-

Registered

- 1. Barum-mor-haidar. A Mussalman society for providing burial to pauper Mohammedans.
- 2. Tang-Ah-Sieng-Boo alias Chinese Japanese Chamber of Commerce. Has no active existence.

mandi 11.6.09



ต้นฉบับไม่มีหน้านี้ NO THIS PAGE IN ORIGINAL

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au. rempl. 6. 1910

กระทรชงเกษทราชิการ

วันที่ • มีถุนายนรักนโกสินา การแลารรางกฤหมาย

- หนังสือถงวันที่ ๑๐ เดือนนี้ต้องบ่ะ รสงค์หนังสือประกาศ
พระราชทานอำนาจพิเศษแล้วยบังคับบริษัทต่าง ๆ มากรวจวินิจฉัย
สำหรับการร่างกฎหมายพื้นส่วนแลบริษัทนั้นพรจบแล้ว

ได้ส่งประกาศพระราชทานอำนาจพิเศษแลข้อยังคับบริษัท ท่าง ๆ ซึ่งได้จดกะเบียนไว้รวม 🏎 เล่มหรือฉบับมายังท่าน พร้อมกับหนังสือนี้แล้ว

> โดยโอกาศนี้ ขอแสดงความนับถือมายังทานก้วย พอกรัฐสทรใจทา

> > ปลัดหูลฉลองกระทรวงเกษตราธิการ

& l'insuperation & Gotters

ไทย ทิมพ์

h: 15/4619. Ministère de l'agriculture Le 14 juin 129.

à Mª Padoux Président de la Commission de Cadification

Par votre lettre du 10 de ce mis vous m'avez demandé de vous faire parvenir le charles d'incorparation et le Habet de divorses Compagnies existant à Baughek. on une de la rédaction de la lis unvertie sur le Société.

Je m'emprem de m, enmer le dit, docu ments en tout vingt-et-une pièces. Le sairie cette recession pour etc...

Ins Levelane d'État au himiteriente

Office of the General Adviser,
Bangkok, 14 th June 1910.

Dear Mr Padoux.

I have duly received your letter of the 10th instant, and beg to send in accordance with your request the sellewing Charters and Articles of Association of the following Companies

Siamese Tramway Co. Ltd.
Weklong Railway.
Siam Commercial Bank.
Menam Motor Boat Co.

I also send the form of Charter for a Bank as drawn up by Mr Westengard.

The Charter of operative Companies generally follows that of the Transport Co Motor. I reduce that I have not got it at hand in the Office because Fhya Boriraks is working on it in connection with a new steam launch Co., but I will send it on as soon as possible.

I also send the file of papers in connection with the Chino-Siamese Steamship Co. Ltd., with the hope that it might prove ofsome use to you.

many others, and I believe copies of their Charter etc can be obtained from their offices.

we have not got them in the office as they follow the lines of the standard form. If I can of further service in any way, you can always call me up on the telephone, and I will go across to see you.

Believe me

Yours sincerely,

Sitipora

Dean nur. Koch

The love commission deny of present engaged in drapany the present engaged in drapany the profession for the time of commercial with Concerning insular companies, they want the members would a failed of the principal formation of the principal companies from in Barry 10th pater hand as to let me have two topics of the charter, memorandem of anoxintin and articles of anoxintin of the Ram Commercial Bank?

Couly yours

W. L. Grut

Men him Erminay Co and of The menant motor 80al Co.

J. Mackay

Dear his. nowkay the meklong Railway Co

The Siam Commercial Bank, L4

Telegraphic Address: ...Siambank"

Bangkok

Sen hr. Padour

Jour little of yesterday! of dake and 12% to head you berwith two copies Each of the Charter and hemorardum & articles of accoration of the Tham Commercial Ama Chi, as deried.

Truly yours and

Dear Priny Lamporn

I thank you very much for The documents which you sent me yesterday.

Here present the sees of must have ignie of some of them made, as some as they are finished, I shall return to you the whole file

Behave me; den Prina, marely yours OFFICE OF THE FINANCIAL ASVINER.

BANCKOK, SIAM

DATED 15th June 1500

Lea hi: Parma.

Very many thanks

for your letter which I

have just received, with

the copy of the maft

provision, concerning Bells.

Your factful

Oflights.

Koch, Eg.

Dear hi,

I tog to acknowledge recent with thanks of your letter of lo-day "
Hindly sending topies of the Charter, menus audian and articles of anoxiation of the Liam Commercial Army

Eruly yours

! Grut, Eng

Riamen Transmay. 60 of the menan

Siam Electricity Co. Ltd. BANOKOK.

Bangkok, the 18th. June 1980

G. Padoux, Esq.

Fresent.

Doar Sir,

I send you herewith 2 copies each of the English version of the Memorandum and Articles of Association of the Sismess Tramway Co. and of the Menam Motor Boat Co., Ltd. also 2 English sories of Charter of Monam Motor Boat Co., and 2 Sismess copies of Charter of Monam Motor Boat Co., and 2 Sismess copies of Charter of Sismess Tramway Co. Sorry we have no English translation of the S.T.Co. Charter.

With compliments

Yours thuly



OFFICE OF THE GOVERNMENT MARINE SURVEYOR

Bunglist 14 00 4 1000

Dear Mr. Padous

lette of 15th med There pleases in forwarding hereworth two copies of the memorandum Aduteles of association and two copies of the Royal Charter in English of the mikelong Railway Co Eth with regards.

Railway Co Eth With regards.

The smill regards.

The smill regards.

June 18 th 1910

Dear Pinny Lithipum

Haven and oner trumens which you kindly men on the 14 th. mit.

Could you let me have the sufficient draps that the superior of the shows . I remember you had it in your file when we make atom the claim of you ke trong against. I has samp akarn in connection with the working of the said to.

Meanwhip to has a provision about inquestion by Government to which I would like to refer.

. Believe me, kan Prime, Faithfully yours

June 18 an 1910

Dear nu mackay

Thouses of your cetter of yesterday forwarding whis of the Charter and articles of amoriation of the mextony vailing Very tarly yours

MRMORANDUM . -

Mr. Padoux, legislative adviser.

to

Mis Royal Highness Prince Rajburi, Minister of Justice. -

ASSOCIATIONS IN SIAM. -

I. - Legal position of associations in Siam.

All moderns Codes have special provisions concerning the contract of association, as distinct from the contract of Partnership or Company.

Partnerships and Companies are those Societies which are formed with a view of sharing profits.

Associations are Societies formed without view of sharing profits. They are usually made for charitable, religious, scientific, artistic, literary, or other such purposes.

Associations are at present governed in Siam by the Secret Society Act of the Ist October IIS (ISSE) by sections I77 to ISS of the Penal Gode.

intended to govern every kind of associations, lawful associations as well as secret societies. But its provisions donoerning secret societies have been repealed and replaced by sections 177 to iss of the Penal Code. Then the Act of the year IIS although it is titled "Secret Societies Act", applies only now to non secret societies.

According to Art, 177 of the Penal Gode, a secret society

is an association the roccedings of which are secret and the object of which is unlawful. Sections 177 to 182 of the Code provide proper penalties for the members of chiefe of such societies. In civil law, it is unnecessary to have provisions about Secret Societies. Since the object of such societies is unlawful, the contract formed between their members is invalident on the object. The draft Civil code has not therefore to deal with the societies the proceedings of which are secret and the object unlawful.

open and the object of which is lawful, they are governed by the following provisions of the Secret Society aut:

According to article 3, every association must be registered. The application for registration must contain the regulations of the association, the list of the members and the list of the places where the association may meet.

No registered association can hold a meeting unless 24 hours notice thereof has been given to the registration office.

The Registering Officer and the Police have the right to be present at such meeting. The Registering Officer has also power to summon the managers or members of every association and to examine them in connection with the working of the association.

Penaltics are provided for non registration and for other offences against the act.

So far as I know, the Act has been enforced in a desultory way. Very few associations are registered. The majority are
not. The British Associations, which are under Siamese legislation since 1909, do not seem to have complied with the act.
It does not appear that the provision concerning notices of meetings was ever carried out by the registered associations.

Several Associations are applied for registration, but their applications were not answered. It looks as if the responsible Ministry would consider that the Registering Officer can refuse

Server, but roginaresian excust only

an application if he thinks fit, although the association is formed in compliance with law and the application contains all the particulars required by the Secret Society Act. In other words, the Ministry construes the expression "registration" as if it meant "authorization". I doubt very much whether suck construction is admissible and whether members of an association which has made an application for registration in conformity with las may be considered as members of a secret society and punished as such. To declare that associations are subject to registration would mean everywhere that every association can get registered as a matter of right, provided it complies with the requirements of the law. It would not mean that associations are subject to previous authorization. I can quite understand, of course, that the Siamese Covernment be in favour of a system of authorization, rather than of a system of registration. But if it is so, it would be safer to state it clearly in the Code rather then to try to work out a system of registration as if it was a system of authorization.

II. - The various legal systems concerning Association
The various legal systems concerning associations range for
absolute freedom to strict restriction; they may be divided
into four principal categories, the characteristics of which
are as follows:

Ist system. - Every association is constituted as a legal person as soon as it is formed between the members. No declaration or registration is necessary.

and system. - Every association is constituted as a legal person as soon as it is formed by the members; but unless it is registered the association has only a restricted personality. The association is not allowed to suc in Court, to own land, or to possess more than the amount of the annual contributions of its members.

grd system. - Associations are not formed unless registered, but registration cannot be refused. 4th system. - Associations are subject to previous authorization to be obtained from the Government.

The first system is the most simple. If it was adopted in Siam, then no societies would be unlawful except searct societies descreibed in Sections ITT and following of the Penal Code. But the system of absolute freedom may lead to a certain number of legal difficulties: the nature or existence of non registered associations being slwers open to discussion. Besides, the system may prove inconvenient from the political point of view, since it gives to the Government no control over the associations.

The second system is not a cormendable one, It seems inconsistent to grant to a body the civil personality. In Tact,
associations with limited personality are very often induced
to act ultra vires; for instance, an association will accept
a gift from a member or from an outside person. The Government
cannot control the working of all the associations and enter
an action against every association acting ultra vires. The
result is that associations may remain for years and years in
existence although they are in an illegal position, thus weatening the effect of the law.

The third and fourth systems (compulsory registration or previous authorisation) are the most simple and the most easy to enforce.

III. - Foreign legislation. -

In Germany, all associations are subject to registration. Registration cannot be refused when the conditions required by law are complied with. Registered associations enjoy the same civil rights as natural persons. They can be dissolve by Court by the request of the Government if their object becomes unlawful.

Prance has adopted the system of non compulsory registration. But Prench legislation on the subject is principally directed against religious congregations. It cannot be taken as a model. In Switzerland, associations are formed by more agreement between members. But they have not full civil rights. To get such rights, they must be registered at the office for registration of Partnerships and Companies.

In Japan, association not having as their object the making of profits cannot be formed unless authorized by the covernment.

IV. - Provisions for the draft Civil Gode.

Before preparing a formal draft of the title of the civil Code concerning Associations, the Code Corrission would like to know what are the views of the Government on the subject.

In order to make the question clearer, we have compiled the annexed provisions, in which all points of importance are referred. The system in these provisions is the system of compulsory registration, not authorisation.

registration is the simplest. No association is valid unless registered. Registration cannot be refused if the other requirements of law are complied with. All registered associations have the same rights and enjoy the same civil personality. The conditions imposed upon the associations with regard to registration are very moderate. Registration does not impose any hardship on an association. Therefore members of an association having a lawful object have no reasonable ground to refuse to apply for registration. If they do not register and are prosecuted, they cannot complain. The enforcement of the law is not therefore likely to cause any friction.

On the other hand, the Government is informed of the existence every association and can keep in constant touch with it.

their registration is a dangerous one. If by obstructing registration a deverment could prevent people from forming associations, the system might be commendable. But in fact when the law is calculated to discourage associations, people will not

and being prevented from forming open associations, they will form searet societies, to the detriment of public peace. When associations are registered, the Government may exercise a good deal of useful action through their heads, whilst searet societies are generally opposed to the Government. The best policy would be to turn people out of searet societies and bring them to lawful societies. But it cannot be done unless the Government allows lawful societies to exist.

there are only four registered associations in Bangkok, a town numbering more than 600.000 inhabitants. The Bangkok Directory for 1910 contains a list of about twenty Siamese or foreign associations the largest number of which are undoubtedly unlawful, although they have been openly in existence for several years and some of their members rank high in the Covernment. It is doubtful whether the system which leads to such a condition of affairs is a sound one.

The Bornes Company Limited.

TAD OFFICE LONDON

BRANCHES BANGKOK BATAVIA CHIENCMA SINGAPORE

. Bunghol

27th. June

HTS FOR LOVE AT

G. Padoux Esqr.

Ministry of Justice.

BANGKOK.

Dear Mr. Padoux.

I return horswith the copy of your draft cade relating to Bills of Exchange, Promissory Notes and Cheques which you were good enough to leave with me sometime ago.

So far as I can judge it seems clearly and simply drawn up, and well suited for the needs and conditions of business as carried on in Bangkok.

With many apologies for keeping the draft so long.

I am,

Yours faithfully,

& Edio

July 4th. 1910.

Dear Mr. Barlew.

Do you think that you may let me have seen your observation about the traft provisions concerning Bill of Exchange, a copy of which I loft with you in May?

I already received answers from the Siam Commercial Bank and the Bangue de l'Indo-chino. It would help us verymuch if we could have your opnion before the draft is submitted to the Siamsse Gevernment.

I have the honour to remain Truly gours.

at fromt with me hory Hend plane bet will out out out carly must much

July 7th. 1910

Dear Mr. Thempson

Siam Commercial Bank have sent in their observations on the traft provisions concerning Bills. I hear from Mr. Barlow that he will forward his opinion next week. May I hope that you will be able to let us know of your views in about the same time?. The matter is becoming more pressing.

Apologising for the trouble, I remain, dear Mr. Thempson,

Truly yours.

THE CHARTERED BANK
OF I.A.& C.
BANGKOK.

7 July 1500

Dear me Padaux

Just.

received your locus *
wick try round in
my opinion mext
were gibet work

year is very pressing

for a time

Karlaman

S July 1910

Memoran dan

Mr. Padeux, Legislative advisor

His Highness Prince Charcon, Minister of Justice

In the course of their work en specific centracts, the Code Commission had to consider that peculiar Slamese agreement which is commonly called contract of dobt services, a contract whereby the Bebt master agrees to lend a certain sum to the dobt servant, and the debt servant agrees to work for the debt master until the debt is extinguished.

The Jode Commission have codified the bxisting statutes and case law on the subject, and they have tried, so far as possible, to avoid provisions which would have more or less assimilated dobt servants to slaves

But whatever precautions may be taken, it is evident that a contract of debt services cannot be carried out unless the master is given same means of coercion against the servant in order to compel him to, do this work.

On the other hand, there is very little difference between compulsory labour and slave labour

The question comes then whether it is advisable to include the centract of debt services into the future Civil Code, or not.

"Ny personal impression is this:

If the Siamese Gevernment consider that under the present conditions of things it is necess-

te have contracts of tebt services, for benefit of both masters and servants, then let the contract of tebt services be dealt with in the Code, since the Oedo must include all centracts usually made in Siam

T. St. Prop. St.

But if the Government consider that a system is an old fashioned one, which is gradually disappearing and most be abandoned in the near uture then better emit it in the draft Gode and let it.

be governed by the existing laws and jurisprotence.

I hope that in another two or three weeks we may begin the printing of the whole draft concorning obligations and specific contracts. I would be glad to know whether I must include " debt sorvices " in it or not.

MEMORANDUM . -

Mr. Padoux, Legislative adviser

to

His Highness Prince Charcon, Minister of Justice.

A large part of the draft civil and Commercial Code shall be ready in a few weeks. It will include the whole matter of obligations, that is to say the general provisions concerning origin, nature, effects, transfer and extinction of obligations, and the provisions concerning spectfic contracts such as Sale, Hire, Loan, Eledge, Partnership, Companies, Bills of Exchange, etc.

The general part may contain about 350 Sections. The part concerning specific contracts shall extend over about 1050 sections, the total being about 1400 Sections.

In my original propositions relating to the Gode Commission, I had suggested that the draft be revised from time to time by a mixed Commission including Siamese lawyers, as the work of the European members proceeds. I was thinking at that time that once a certain number of sections are ready we would examine them together with the Siamese members, and the translation of the propositions adopted would have been made by the Siamese members themselves, after each sitting of the mixed Commission.

Since then, your Righness has informed me that the Ministry of Justice could not at present spare a sufficient number of able men as members of the miled Commission. It was decided therefore that up to further order the European advisers should proceed alone with the work.

The Civil and Commercial Code shall consist of five parts:

- I. General Provisions.
- 2. Porsons.
 - 5 Things.
- 4. Obligations.
- 5. Inheritance & wills.

Your Highness knows that the Commission has begun work with the 4th part, party because there was a possibility of that part being enacted first, and partly because it was the casiest part to undertake for the new members of the Commission. Anyway, that 4th part is now being finished and I hope that in August we may begin to codify the provisions concerning persons and family. For the following reasons, it seems unadvisable to proceed further without having a translation of the part concerning obligations made:

- I. If we wait till the whole draft is finished, there will be more than 5000 sections to translate, that is to say nine times the Penal Code. You know that it took about one year to have the text of the Penal Code translated and the translation revised. How long shall the translation of a Ci-vil Code of 5000 sections last?
- 2. I am afraid that translaters, however able they are, if entrusted with the translation of such a number of provisions, shall feel absolutely discouraged.
- shed their task before making the translation, the Government shall be obliged to keep them waiting for months or years with very little to do, whilst the translation is going on, till the revision of the draft begins. That will mean a waste of money.
- 4. If the several stages of the work of Godification, vis: compilation, correction, translation, revision, instead of being carried out simultaneously are carried out successively, the Godification shall last much longer than expected.

 Por instance, if the translation of the obligations is under

taken now, when it is finished the part concerning Persons may be ready for translation; when the part concerning Persome is tremslated, the part o noorning Things may be ready, etc. In the mean time, a first revision of the part concerning Obligations may be carried out whilst the part concerning Property is being translated, and so on. Thus, when the draft of the last part is finished by the European advisors, the work on the preceding parts shall be sufficiently advanced to enable the Covernment to promulgate the whole Code in a comparatively short time. On the contrary, if the Covernment wait till ISIS before beginning the translation, the translation may take IS months or more, then the revision shall take say another IS months, and the Civil Code shall not be enac ted before 1919 or 1916. To say nothing of the Code ff Griminal Procedure, Code of Civil Procedure and Law of organisation of Justice.

5. - The draft on Obligations having made by the European advisors alone, there are in it a great many points on which they must consult with Siamese lawyers. A full translation of the draft is necessary to enable us to ask for their opinion. I might add that if these points are not discussed and decided in a rather short time, the progress of the work on the other parts of the Code may be delayed, because several leading rules concerning Persons and Things depend on the debisions to be taken in matters connected with obligations.

with regard to the way in which the translation shall be carried out, I am not competent to make any suggestion. However, I would like to call the attention of the Minister on two points:

I. - From what I have seen of the translation of the Penal Code, the main difficulty is to get the translator to find the exact meaning of the english text. Unless the translator is familiar with legal questions, he may understand perfectly well the grammatical sense of an english provision and miunderstand at the same time its legal sense. Them a Siamone
translation of a draft law is being made, it is often necessary, instead of translating word per word, to substitute to
a short english sentence a more developed and elaborate
Siamone sentence. If the translator has not grasped the complete meaning of the english provision, there is a probability that the Siamone corresponding version shall be inaccurrate. It is necessary therefore that the translator or translators should keep in constant touch with the members of the
Code Commission in order to ascertain from them the true
meaning of the english draft.

2. - For the same purpose, I would like that the Siamese translation be compared with the english text by a European adviser conversnat with the Siamese language and with the Codification system. Of course, I do not think that a European advisers could correct a Siamese translation. But a roung legal man having only a superficial knowledge of Siamese may ascertain whether the general sense of the provisions of the english draft has been understood or not. For instance, when the Penal Code was translated, the system of recidive provided in section 73 & 74 was not well understood. As a matter of fact. the present siamese provisions of Sections 73 & 74 do not correspond to the english draft. The difference was notioed and was mentioned to me by persons who had only a poor knowledge of Siamese. Those persons could not say how the english text ought to be translated, but they were able to notice mistranslations coming from a misunderstanding of the english text. I think therefore that an examination of both texts by one of the legal advisers of the Ministry of Justice might be very useful for ascertaining whether the siamese version corresponds to the english draft.

I the Ministry would consider the question of translation

now, and have the proper appointments made, the persons entrusted with the translation could start work as soon as the "Obligations" are printed.

MENORANDUM . -

Mr. Padoux, Legislative adviser

20

His Highness Prince Charcon, Minister of Justice.

A large part of the draft civil and Commercial Code shall be ready in a few weeks. It will include the whole matter of obligations, that is to say the general provisions concerning origin, nature, effects, transfer and extinction of obligations, and the provisions concerning specific contracts such as Sale, Hire, Loan, Eledge, Partnership, Compenies, Bills of Exchange, etc.

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- 5. Inheritance & wills.

Your Highmess knows that the corrission has begun work with the 4th part, party because there was a possibility of that part being enacted first, and partly because it was the easiest part to undertake for the new members of the commission. Anyway, that 4th part is new being finished and I hope that in August we may begin to ordify the provisions concerning persons and family. For the following reasons, it seems unadviseble to proceed further without having a translation of the part concerning obligations made:

- I. If we wait till the whole draft is finished, there will be more than 3000 sections to translate, that is to say nine times the Penal Code. You know that it took about one year to have the text of the Penal Code translated and the translation revised. How long shall the translation of a Civil Code of 3000 sections last?
- 2. I am afraid that translators, however able they are, if entrusted with the translation of such a number of provisions, shall feel absolutely discouraged.
- shed their task before making the translation, the Government shall be obliged to keef them waiting for months or years with very little to do, whilst the translation is going on, till the revision of the draft begins. That will mean a waste of money.
- 4. If the several stages of the work of Codification, vil: compilation, correction, translation, revision, instead of being carried out simultaneously are carried out successively, the Codification shall last much longer than expected.

 For instance, if the translation of the obligations is under

taken now, when it is finished the part concerning Persons may be ready for translation; when the part concerning Persons is translated, the part o nearning Things may be ready, etc. In the mean time, a first revisions of the part concerning Obligations may be carried out whilst the part concerning Property is being translated, and so on. Thus, when the draft of the last part is finished by the European advisors, the work on the preceding parts shall be sufficiently advanced to enable the Government to promulgate the whole Code in a comparatively short time. On the contrary, if the Covernment wait till ISIS before beginning the translation, the translation may take Is months or more, then the revision shall tahe say another IS months, and the Civil Code shall not be enac ted before ISIR or ISIS. To say nothing of the Code ff Criminal Procedure, Code of Civil Procedure and Law of organisation of Justice.

5. - The draft on Obligations having made by the European advisors alone, there are in it a great many points on which they must consult with Siamese lawyers. A full translation of the draft is necessary to enable us to ask for their opinion. I might add that if these points are not discussed and decided in a rather short time, the progress of the work on the other parts of the Code may be delayed, because several leading rules concerning Persons and Things depend on the . decisions to be taken in matters connected with obligations.

With regard to the way in which the translation shall be carried out, I am not competent to make any suggestion. However, I would like to call the attention of the Minister on two points:

.I. - From what I have seen of the translation of the Penal Code, the main difficulty is to get the translator to find the exact meaning of the english text. Unless the translator is familiar with legal questions, he may understand perfectly understand at the same time its legal sense. When a siemese translation of a draft law is being made, it is often necessary, instead of translating word per word, to substitute to a short english sentence a more developed and elaborate siamese sentence. If the translator has not grasped the complete meaning of the english provision, there is a probability that the Siamese corresponding version shall be inaccurate. It is necessary therefore that the translator or translators should keep in constant touch with the members of the Code Commission in order to ascertain from them the true meaning of the english draft.

2. - For the same purpose, I would like that the Slamese translation be compared with the english text by a European advisor conversaat with the Siamese language and with the Codification system. Of course, I do not think that a European advisers could correct a Siamese translation. But a young legal man having only a superficial knowledge of Siamese may ascertain whether the general sense of the provisions of the english draft has been understood or not. For instance, when the Penal Code was translated, the system of recidive provided in section 75 & 74 was not well understood. As a matter of fact, the present siamese provisions of Sections 73 & 74 do not correspond to the english draft. The difference was noticed and was mentioned to me by parsons who had only a poor knowledge of Siamese. Those persons could not say how the english text ought to be translated, but they were able to notice mistranslations coming from a misunderstanding of the english text. I think therefore that an examination of both texts by one of the legal advisers of the Ministry of Justice might be very useful for ascertaining whether the siamese version corresponds to the english draft.

I the Ministry would consider the question of translation

now, and have the proper appointments made, the persons entrusted with the translation could start work as soon as the "Obligations" are printed.

Bonglong and Shangbai Banking Corporation.

And Lamigue on the Address on the Reportunities there increase on the Montenance & Sanatonia Managers Commissioners Mar To Februaries.

Bunghet 18th July # 10

Dear Mr. Padoux,

Referring to your favour of July 4th, I now enclose a few notes I have made on the subject of the Bill of Exchange laws.

I return the draft provisions herewith.

Yours faithfully,

G.Padoux, Esq.,

Bangkok.

Section 5859,60,104,105.

Special arrangements would have to be made with the post office with regard to the receipts given to the holder. Unless the letter is handed to the post office open how are they going to give such a receipt. The thing seems unworkable & it would be better have a dishonoured bill presented to drawee by a notary or some such official Section 74.

Should this not read. If the drawee refuses to accept the bill of exchange.

Section 104.

There should be some rule as to due date of bills drawn after sight or after date i.e. whether days of grace are allowed, and also what date a bill is payable on, if it falls due on a Sunday or Bank holiday.

Section 122.

such bill. This should be only if the holder consents. I would point out that bills are sometimes drawn for only part of the value of the shipping documents attached to them under those circumstances has the holder to hand over the bill & attached documents to any one who chooses to pay the bill.

Section 146.

Should this not read. A cheque can be drawn payable to bearer or

Section 146 (contd/-

payable to bearer it is to be considered as payable to order of payee & if payees name is not inserted it is to be considered as payable to order of payable to order of the drawer & to require his endorsement.

Section 150.

The time 1 year is too long. Three months is quite long enough.

Section 151.

The common practice is for manks to treat cheques as stale if they are presented over 6 months after they are drawn. One year is quite long enough. What about a cheque being irregularly drawn, or postdated. Is a mank compelled to pay say when amounts in words & figures differ ? As the law reads at present it would have to do so. I suggest the addition of the words "regularly" between cheque & drawn.

Section 153.

Does this mean a Bank acceptance.

Section 171.

Refers to Sections 176 & 177, but my copy does not contain those sections.



6/9086

กระทรวงยุศิจรรม วันที่ ๑๔ กรกฎาคมรัตนโกสินทรศ์ก็

แจ้งความมายังมองชีเออร์ ปี.ปากุช์.เลยีศเลศีฟแอดไวเซอร์
ทามแมโมแรนดำของท่ามลงวันที่ ๔ เดือนนี้หาฤๆว่า
จะควรรวมพระราชบัญญัทีลักษณอาญาการกระทำผิดสัญญาเข้าอยู่
ในประมวลแพ่งที่จะว่างต่อไปหรือไม่นั้น หม่อมเจ้าจรุญศักดี
กฤษดากรยู้รั้งตำแหน่งเสนาบดีกระทรวงยุติธรรมมีรับสั่งว่า ให้
แยกออกท่างหาก

โดยใจกาศนี้ ซอแสดงความนับถือมายังทานค้วย

Sugar W

M: 4/1098.

Ministère de la justice 15 juillet 129

à Me? Padowe, Legislatif alviser

Dans le Monorandum que vous any adresse au Ministre de la justice le 8 de ce mois vous deux audies si le contratt de , debt services devait être incorporé dans le futur Code Civil ou van de Prince Charon, faisant fonction de ministre de la quetice, vous fait varris qu'il est preférable que le Contrat de , debt services ne aut soit pas in lus dans le Co de Civil.

Je saisis l'occasion pour vous etc...

Dear Mr. Barlow,

HERE CINE

I have referred to the english law on two of the points which we discussed this morning, vis:

- I) discrepancy between sum in letters and sum in figures,
 - 2) payment for honour.

Section 9 of the Bills of Exchange Act, 1882, reads:

- * (2) Where the sum payable is expressed in
- " words and also in figures, and there is a discrepancy
- " between the two, the sum denoted by the words is the amount " payable."

In Chalmers' commentary on the Bills of Exchange Act there is a note showing that the practice followed by bankers in England in respect of cheques is that the smaller sum is the sum payable.

It does not seem advisable to have two different systems, one for bills of exchange, one for cheques. I think therefore that the best solution would be to adopt the english system of Section 9 of the Bills of Exchange Act, that is to say the system proposed in the draft submitted to you. Anyway, would you agree on the principle of the english law that a cheque or a bill of exchange is not invalid by reason of there being a disgrepancy between the different expressions of the sum payable. Once the

principle is admitted, we might examine afterwards whether it is betted to adopt the rule of the Act (sum in words), or the practice of english banks (smaller sum).

with regard to payment for honour, the following are the provisions of the english Act :-

- * 68 (I). Where a bill has been protested for
- nonpayment, any person may intervene and pay it supra
- " protest for the honour of any party liable thereon, or for
- * the honour of the person for whose account the bill is
- " drawn.
- " (6). The payor for honour on paying to the
- " holder the amount of the bill and the notarial expenses
- " incidental to its dishonour is entitled to receive both
- " the bill itself and the protest. If the holder do not on
- " demand deliver them up he shall be liable to the payor "for honour in damages.
- "(7). Where the holder of a bill refuses to "receive payment supra protest he shall lose his rights of
- " recourse against any party who would have been discharged
- " by such payment. "

oncerning documentary bills. The english system is practically the system proposed in our draft, that is to say that any person not a party to a bill may pay it, even if it be a documentary bill. I would feel very reluctant to propose the adoption of arrestriction which would be contradictory to the rules enacted by all laws on the subject.

Very truly yours,

Hongkong and Shanghar Bunkeng Coope mine

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Services and Process

One (Services Bearing, Common row

One (Services Bearing, Common row)

Bunghok 18th July 10

Dear Mr. Padoux,

Beferring to yours of July 15th, I agree with you that it would not be advisable to adopt two different systems, one for bills of exchange and one for cheques. I agree that a cheque or billof exchange is not invalid by reason of there being a discrepancy between the different expressions of the num payable, but I certainly think that the lesser sum should be the amount payable.

I note what you say with regard to documentary bills.

Yours faithfully,

G.Padoux, Esq.,

Bangkok.

Hongkong and . Thunghai Banking Curperation

Buildings of the Assessments formulate and the sector of the good Section Beamer, Concerns on get 10 constitutes. Bunghah 18th July 11 10

Dear Mr. Padoux,

Referring to yours of July 15th, I agree with you that it would not be advisable to adopt two different systems, one for bills of exchange and one for cheques. I agree that a cheque or billof exchange is not invalid by reason of there being a discrepancy between the different expressions of the sum payable, but I certainly think that the lesser sum should be the amount payable.

I note what you say with regard to documentary bills.

Yours faithfully,

G.Padoux, Esq.,

Bangkok.

July Isth. 1910

Pear Mr. Tilleke.

I enclose a copy of the draft provisions concerning Partnership and Companies prepared by the Code Commission for the future Civil and Commercial Code.

I would like very much to have your opinion as a business man on these draft provisions, principally those dealing with Limited Companies.

If you find anything requiring explanation, kindly let me know. I will give you any further information you may want.

You will understand that I am not acting officially, but in my personal name only. Please therefore consider the present communication as a private one.

Very truly yours.

Chartered Bank of India. Australia & China.

Bangkok soth July 1910

6.Padour Baq.

Ministry of Justice

Bangkok

Door Sir,

Title XVI Bills.

Referring to your letter of 7th. Instant, we beg to return a copy of the above proposed bill. We draw your attention to sections Nos. 59/60, 104, 122, 146, 150, 155 and 171 on which we comment in the margin.

I am, Dear Sir,

Yours faithfully,

Vn er 21 juillet 1940

Agent.

Banglesk, July 23 No 1910

Monsieur G. Takon K

Ster Sir

spare espies of the druft law on the expisition of partner shifts, on which you were good hough to ask that views of this Association. Here are 19 members in all, and if I could have some make espies it would facilitate all the members making themselves acquainted with the provisions before the meeting, which is to take place on the 1st Augustet. If you will have a telephone we sage cant me, I can send to the Ministry fo such espies as you may be able to space

Lett. Mundie Lecretary

July 85th. 1910

Dear Mr. Mackay.

I enclose a copy of the traft provissions concerning Partnerships and Companies which have been prepared by the Code Commission for the future Civil and Commercial Code.

I would like very much to have your opinion as a business man on the provisions dealing with Limited Companies

If you find anything requiring explanation, kindly let me know. I will give you any further information you may want.

You will understand that I am not acting officially, but in my personal name only. Please therefore consider the present communication as a private one.

Very truly yours.

2 7 a July 1910

Dear hu Padona

Letter of 25th together with dreft provisions concerning Partnerships and Companies

give some attention to the part dealing with himited Companies and will write for leter asking for an intervew as I am noting some points on which I would desire for further consideration view will be for the further youther formed desire for purther consideration view will be formed.

Amackay -

29th. July 1910.

MEMORANDUM,

Mr. Padoux, Legislative Advisor

to

H.H. Prince Charcon, Minister of Justice.

In the Charter granted to the Siam Commercial Bank on the Soth. of January 125 there is a provision, article 28,

Market Valle Service V Valle - Inches

of that all books, accounts and papers of the Company shall be open to the inspection of the Government.

Article 30 also says " that the Company shall be subject to the supervision of the Minister of Agriculture in all its acts."

Article 58 of the Charter of the Menam Motor Boat Co. granted 9th. May 126, reads:

*The Government may at any time have the books, documents and accounts of the Jompany examined by an inspector appointed for that purpose, in order to ascertain whether the provisions of this Charter are complied with.

There are similar provisions in the Chartess of the Siam Steam Mavigation Co. (9th. September 127)-of the Meklong Failway Co. (6th. October 127)- of the Transport Motor Co., of the Bangkok City Bank (21gt. August 188)-etc.

The question of inspection of Companies incorporated was considered when the first draft law concerning Partnerships and Companies was compiled in the year 119.

Article 85 of the draft runs as follows:

"The Government may appoint one or more competent inspectors to examine into the affairs of any Company under this Law and to report thereon in such manner as the Government may direct upon the application of members holding not less than one fifth part of the whole shares of the Company for the being issued.

The Government may require evidence for the purpose of showing that the applicants have good reason for requiring such investigation to be made and that thay are not actuated by malicious motives in instituting the same, and also that the applicants give security for payment of the costs of the inquiry, before appointing any inspector or inspectors."

The system provided by these various documents is that the Government may either on his own motion or on the application of shareholders, appoint inspectors to enquire into the affairs of the Company. The inspection is entirely left to the discretion of the Government, who may appoint or not appoint inspectors, as they think fit.

Personally, I am not in favour of that system, because the exercise of the option is likely to cause trouble to the Government.

In such matter, the Government will almost never move by themselves. I mean it is highly improbable that the Government shall order an inspection on the more suggestion of an official. The Government will always be moved by interested persons, that is to

way by creditors or shareholders of the Company, who will some and complain to the Minister.

or refuses it, the action of the Covernment will be open to criticism. If the application is granted the Company may complain that the decision of the Covernment of the Co. and may injure its credit.

If the application is refused, the shareholders or creditors may complain later on that the refusal led the Company to its final rain.

For instance, there has been a case in which Onin Yee Ko Hong prayed the Government to make an inspection of the accounts of the Chino Siamese Steam Navigation Jo. by stating that some of the shareholders did not pay up their shares in cash, as provided by the Charter. The Government has refused the application. Suppose that in another year or two the Chino Sigmose Steam Navig: tion Co. would fail, and that it be found on settling the accounts that Yee Ko Hong's contention was correct. You Ko Hong may say: " If the Government had appointed inspectors when I made the application, the true facts would have been discovered, the Company would have been wound up, or things would have been put right. Anyway, the money invested by me would not be lost. Now, the Jospany is bankrupt, the assetes are reduced to nothing, My money is lost. I consider the Government is responsible for the loss." There is no doubt that Yee Ko Hong would not have a legal ground for complaining, because the Charter states that the inspection depends entirely on the discretion of the Government. But from the business

of any paristores economy and to report florents

point of view, there would be something worth consideration in such a complaint.

had ordered an inspection of the Chine Siamose Steam Navigation Co.to be made, the managers of the Co. would at once complain that the Government is taking the part of a minority of shareholders, is interfering with the affairs of the Co., and is harming the credit of the Co. without sufficient reason.

I am therefore inclined to think that the safest line for the Government to take in such motter would be either to do away with any system of inspection by the Government or to provide that inspection must be ordered, as a matter of right whenever an application to that effect is made by shareholders holding a certain percentage of shares. Then, the responsibility of the inspection would fall entirely on the person who applied for it. The Government would only have to ascertain whether the conditions required by law are complied by the applicants, and, if centended to appoint the inspectors. The report of the inspectors would be sent to the applicants who may submit it to a general mosting of shareholders as they think fit; The Government would have nothing to do with that report.

The following provisions have been inserted to that effect in the part of the draft Civil and Commercial Code which deals with Companies:

814. - Upon the application of shareholders holding not less than one fifth part of the shares of the company, the Minister of Justice must appoint one or more competent inspectors to examine into the affairs of any registered company and to report thereon.

maying for orginary instaction sould apply for iropection

The Minister can, before appointing any inspector, require the applicants to give scourity for . Payment of the expenses of the inspection.

217.- All expenses of such inspection ames be repaid by the applicants, unless the Company, in the first general meeting after such inspection is finished, consents the same to be paid out of assets of the company.

Practically, the proposed system consists in giving to the shareholders holding a certain percentage of the shares the right to have an inspection made of the affairs of the company, by applying to the Government. The action of the Government is limited to the selection and appointment of the inspector or inspectors.

The draft provides for the appointment of the inspector by the competent Minister. If deemed more convenient, it may be provided that the inspectors shall be appointed by Court.

A provision might also be added to give to the Minister the power to order an inspection on his own motion, in order to ascertain that the provisions of the law are complied with. Such discretion would be granted only for Governmental or legal purposes. But I am afraid that if there is such a provision shareholders not holding a sufficient number of shares to apply for ordinary inspection would apply for inspection by the Covernment. The same difficulties as described above would then arise.

-:-+:-:-:-:-:-:-:-:-:-:-:-

The Code Commission would be glad to know of

the views of the Government on the subject, in order to alter the draft, if necessary.

MICROFILMED BY:

OFFICE OF THE SURIDICAL COUNCIL
THA CHANG WANG NA,
BANGKOK 10200,
THAILAND.